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the 1990s, the number of people in the world who are undernourished has increased from 600 million to 800 million. The number of people who are malnourished has increased from 1.2 billion to 1.6 billion. The number of people who are obese has increased from 100 million to 300 million.

There is a growing awareness of the need to address the problem of malnutrition. The World Health Organization (WHO) has launched a global strategy to reduce malnutrition. The strategy is based on three pillars: (1) improving the quality of food, (2) increasing the availability of food, and (3) improving the access to food. The WHO is working with governments and other organizations to implement this strategy.

There are many reasons why malnutrition is a problem. One reason is that food is often of poor quality. Food is often high in calories but low in nutrients. This is because food is often processed and refined. Another reason is that food is often not available. Food is often expensive and difficult to obtain. This is because food is often imported from other countries. A third reason is that food is often not accessible. Food is often not available in certain areas, such as rural areas.

There are many ways to address the problem of malnutrition. One way is to improve the quality of food. This can be done by encouraging the production of more nutritious food. Another way is to increase the availability of food. This can be done by supporting local food production. A third way is to improve the access to food. This can be done by providing food to people who are in need.

There are many organizations that are working to address the problem of malnutrition. The WHO is one of the most prominent organizations. The WHO is working with governments and other organizations to implement the global strategy to reduce malnutrition. There are also many other organizations, such as the United Nations World Food Programme (WFP), that are working to address the problem of malnutrition.

There are many ways to support these organizations. One way is to donate money. Another way is to volunteer. A third way is to raise awareness of the problem of malnutrition. This can be done by talking to friends and family, or by writing to your local representatives. There are many ways to get involved, and everyone can make a difference.

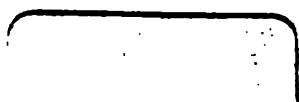
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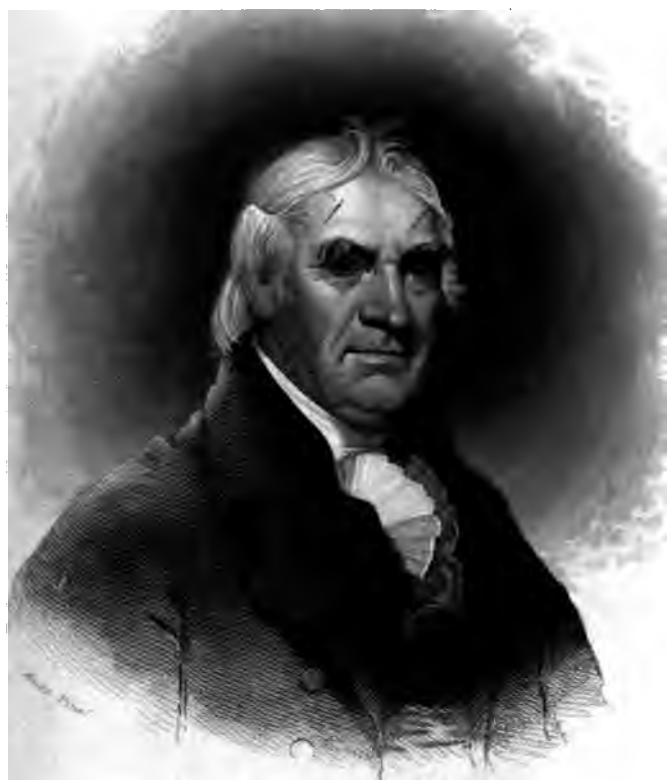








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THOMAS BLAND

THE  
HISTORY  
OF  
POLITICAL PARTIES  
IN THE  
STATE OF NEW-YORK,  
FROM THE RATIFICATION OF THE FEDERAL  
CONSTITUTION TO DECEMBER, 1840.

IN TWO VOLUMES.

By JABEZ D. HAMMOND, L. L. D.

*Fourth Edition, Corrected, and Enlarged.*

TO WHICH IS ADDED,

NOTES BY GEN. ROOT.

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VOL. I.

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## ADVERTISEMENT.

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IN presenting to the public this new, and it is hoped CORRECTED AND IMPROVED, edition of the POLITICAL HISTORY of the State, I seize with great pleasure the occasion to express my grateful and cordial thanks for the liberal and kind manner with which my labors have been received. To the newspaper press, of both political parties, without a single exception, I beg leave to acknowledge my deep and lasting obligation.

Several errors which, in the haste with which the work was put to press, escaped my notice, are now corrected;—and, having lately been favored with some valuable notes from THE HON. ERASTUS ROOT, I have now the satisfaction of presenting them to the reader.

The long political life of Gen. Root, his intimate acquaintance with the contests between the various parties which have existed for the last half century, his personal knowledge of the prominent actors in those contests, and his admitted great and distinguished abilities, render any thing coming from his pen, on the subject of the political history of this state, of inestimable value. It is true, he sometimes differs from me in opinion; but that circumstance does not, in my judgment, furnish an objection to the publication of the views of so enlightened a statesman in connexion with my history. Mr. Pope, in one of his letters, thanks his friend more for his censure than for his commendation; and he says, “It is more advantageous to a scribbler to be *improved* in his *judgment*, than to be *soothed* in his *vanity*.”

I have also the pleasure to present to the public a letter addressed to me by the HON. LUTHER BRADSHAW, late Lieut. Governor. It contains a very able and learned discussion of a question of parliamentary law, which arose on a point of order



decided by him while presiding officer of the senate, and is mentioned by me in Vol. 2, p. 523. Independent of my desire to do justice to that excellent and pure minded man, I am induced to publish his letter because, I am quite sure that the learning and ability displayed in it will amply compensate the reader for the time which its perusal will require.

I have likewise prefixed to each volume a summary of the contents of the respective chapters in which the page containing any matter deemed important is designated, which it is hoped may render the work useful and convenient as a book of reference.

JABEZ D. HAMMOND.

Cherry Valley, March 24, 1846.

## PREFACE.

---

BEFORE any part of the following work was written, I addressed a letter to a highly intelligent and judicious friend residing in the city of Utica, informing him of my plan, and asking his advice whether the attempt to execute it would be discreet or prudent? His reply, in substance, was :— “ If you describe men and their actions as they really were and are, you will draw upon yourself the interminable and bitter hostility of the persons about whom you write, as well as that of their connexions and friends. If you palliate or conceal conduct which merits animadversion, your book will not be what you profess it shall be, and will, besides, be dull and uninteresting. I advise you to abandon the project.” Like most men who ask advice, I have neglected to follow that which I received from my sagacious friend.

Notwithstanding the opinion I have quoted appears on its face quite plausible, I still entertain the hope that the truth may be told in relation to the political conduct of men without exciting their enmity, or that of their friends. At any rate, I am sure, that a candid, fair, and impartial narration of the actions of public men, may be given without affording *just cause* of offence. But suppose the publication of truth should occasion to some few individuals unpleasant feelings, will not such publication, in its consequences, be generally salutary? Ought not the legislator and the politician to be fully aware, and strongly impressed with the belief, that he will be held accountable for his acts and declarations, not only to his immediate constituents and cotemporaries, but to posterity?

Others of my friends have advised me that a history, written upon the principles which I claim to have been governed by, ought not to have been attempted by an actor in the scenes which he describes, who, of course, must have been a participator in the passions and prejudices which prevailed, but should have been executed by a man of another generation, or, at any rate, by one who had not mingled in the contest, and who had kept himself entirely aloof from party conflicts. The answer to this suggestion is, that a work written by such a person must, of necessity, to a considerable extent, be *fiction* and not *history*. Could a secluded philosopher, a cloistered monk, or a man who lived during the reign of Louis the Fifteenth, have described the actions of men in the city of Paris, and their motives of action, from Court Journals and parliamentary records, so well and truly as they are delineated in the memoirs of Cardinal De Retz?

My object has been to speak of men as they were. If I undertake to describe to a friend the person of one who is a stranger to him, and who happens to have red hair, do I act with good faith if I say his hair is black or chestnut colored?

Our government is a representative democracy. The Grecian, Roman, Italian and Dutch governments, though called republics, were either aristocracies or pure democracies. Such a government as ours was unknown in the world, until within sixty or seventy years. It is for this reason that a correct history of man acting upon this new theatre, must, of necessity, develop new traits in the human character—a new page, if I may so speak, in the natural history of man. Hence, the view I have presented, if I have successfully executed my plan, will interest the philosopher as well as the statesman.

Smith's Colonial History of New-York, and Dunlap's continuation of it, (a very valuable work,) stops at a very early period in the existence of this government, and indeed, does not, I believe, profess to be a history of the political parties which prevailed during the times of which it treats. Our biographical writers have mainly confined themselves to a description of the character and actions of the persons of whom they write: and their works generally partake more of the character of eulogy than history. Of this, it would be easy to cite examples. It may therefore, I think, be said, and truly said, that the political history of the state has not yet been written.

I can say, and I do say in the sincerity of my heart, that I have written the following sheets with the same regard to truth as I should answer interrogatories if testifying in a court of justice. But notwithstanding this, it is possible, and indeed probable, that I may have, in some instances, erred as to matters of fact; but, I hope and believe, that those errors will be found to be neither numerous nor very material. With respect to my inferences and conclusions from facts, the reader will, of course, judge whether they are or are not correct.

It will be perceived that I have confined myself, in the description of parties, to those parties only which have affected the politics and legislation of the state of New-York. Hence, the action of the national government, and the character of the individuals who controlled it, are only noticed when the conduct and management of that government had an immediate effect upon parties in the state of New-York; and hence, also, the action and services of some distinguished members of congress from this state are little noticed, and even the names of many of them are not given.

The history of the SENATE of New-York contained in the following pages will be found ample, and, it is hoped, satisfactory. The names, and generally, the political character of every senator elected since the year 1788, are given.

The history of the assembly is not so perfect ; but I flatter myself that it will be found that the names, character and actions of most of the leading members of that important department of the state government have been correctly set forth.

That a work, of the kind this professes to be, is much wanted, and, indeed, indispensably necessary to the young politician, and that it is calculated to be extensively useful, will, I have no doubt, be admitted by all reflecting men ; if, therefore, this has been executed with fidelity and impartiality, it is hoped it may receive the approbation and patronage of a generous public. It may, however be, (and indeed what can be more probable ?) that I have wrongly estimated the merits of the work. Of this, the public must and will judge. I may, nevertheless, be permitted to say, that I believe that those who take the trouble to read the whole of what I have written, will arrive at the conclusion that the tendency of it will be to promote kind and good feelings between individuals belonging to adverse parties, and to cause the great laws by which all parties ought to be governed in their conduct towards their own members, and towards their opponents, to be better understood. I also hope and believe, that this history will illustrate, by very numerous examples, the truth of a common remark: that there are good and bad men among all parties, and that the real difference in principle between an immense majority of the individuals who compose the two political parties in a state, is not so great as is generally imagined, or as is commonly represented by the leaders of the respective parties.

If the result of my labors shall aid the rising generation, and especially the young politician, in forming a just estimate of the merits of distinguished individuals, and of parties who have heretofore occupied the political field ; if it shall tend to assuage the bitterness of party zeal, and particularly that bitterness which produces personal animosities and poisons social enjoyment ; and, above all, if it shall contribute towards fixing firmly in the mind of every citizen, to whatever party he may belong, a determination that the great and fundamental principles of civil liberty, guaranteed to us by our state and national constitutions, are never, from party considerations, or the supposed interest of any party, to be violated, I shall feel myself amply rewarded.

## ERRATA.

The reader is desired to correct with his pencil the following errors, which have escaped the press.

Page 57~~8~~, 16th line from top, for *stockholder*, read *stockholders*.

" 58~~8~~, 26th line from top, for *correct*, read *incorrect*.

" 58~~8~~, 3d line from top, for *friend* in New York, read *friends*.

" 58~~8~~, 8th line from bottom, for *Jacobinie* read *Jacobinic*.

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**POLITICAL HISTORY**  
**OF**  
**NEW-YORK.**

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**CHAPTER I.**

**THE STATE OF POLITICAL PARTIES IN THE STATE OF NEW-YORK,  
AT THE TIME OF THE ADOPTION OF THE  
FEDERAL CONSTITUTION.**

**DURING** the contest for American Independence, the existence of political parties, according to the present notions we entertain of those associations, may be said to have been unknown in the United States. There were indeed in each of the states, a few families who, either from motives of interest, or considerations of duty, retained their attachment to the British Government; and perhaps the state of New-York, in proportion to its population, contained a greater number of adherents to the King of England, than any other of the American Colonies. This was probably partly if not entirely owing to the great number of offices held in the then colony of New-York, under the Crown. But an immense majority of the people, as well in this as in the other colonies, at an early stage of the controversy with the mother country, resolved at any and every hazard, to resist what they deemed to be the unconstitutional laws enacted by the Imperial Parliament. After the commencement of hostilities, those who supported the claims of Great Britain, and who were

called tories, were regarded by the great mass of the people, and even treated by the temporary governments which were organized, rather as alien enemies than citizens of this country. A decided conviction that the acts of the British Government were an encroachment on their rights as freemen, a fixed and settled determination to maintain those rights, an ardent desire to establish a free government independent of all foreign control, and a sense of common danger, constituted a strong bond of union of the friends of American liberty and independence ;—and though personal jealousies, avarice, rivalry and ambition no doubt existed, and occasionally produced combinations of individuals and consequently cabals; in general all selfish views, pursuits and interests were absorbed in the contemplation of the most effectual means of resistance to unconstitutional and oppressive laws, a resolution to defend the principle of equal rights, and a determination to establish an independent government.

But no sooner had Great Britain acknowledged the independence of the United States, and the treaty of peace of 1783 been ratified, than men began to speculate on and form different and adverse theories respecting the form of government best adapted to preserve personal liberty, promote the general welfare, and secure the union of the States. Leading and influential individuals also began to deliberate upon the most effectual means of advancing the separate interests of the states of which they respectively were inhabitants, and it is probable that combinations having in view the gratification of individual interests and ambition, were early formed and organized.

It required little reasoning to convince all intelligent men, that the plan of government, or rather union, contained in the Articles of Confederation, adopted in 1777, was not competent to preserve the Union, and at the same time regulate the commerce of the American nation, and

enable it to discharge its debts, defray its expenses and perform its engagements with other nations. The old Congress was, by these articles, little other than a meeting of ambassadors from the several states : ambassadors too, who generally speaking, had not the power to bind their principals. They, except in a very few cases, could only recommend the adoption of such measures to the states as, in their judgment, the public welfare demanded ; but the carrying into effect of those measures depended on the voluntary action of the respective state legislatures : hence it was most evident that some scheme of general government must be adopted, which would enable that government, without the consent of all the states, to act upon the persons of the citizens of each state ; or the union if it could be preserved, would, for all important national purposes, be quite useless. A few years' experience after the peace, proved the truth of this position. What should that plan of government be, which should remedy the evils already experienced, and guard effectually against those which were anticipated ? Thinking and reflecting men in every part of the nation turned their attention with anxious solicitude to this interesting and important question. All admitted the imperfections and inadequacy of the Articles of Confederation : all admitted that a new plan of government or constitution ought to be devised and adopted, but they differed widely in relation to the principles which that constitution ought to contain, and the magnitude and nature of powers which should be granted to the general government.

It was this difference of opinion which produced the first organized political parties in this state and nation. Here, therefore, the task I have undertaken commences. But I do not propose to enter minutely into a detail of the movements of the leaders of the two parties to this controversy. It is to a later period which the atten-

tion of the reader is more particularly invited, and in which I shall endeavor to delineate more in detail the character, and develop more fully the motives of the actors in the political drama, and the causes which impelled them to action. [See Note J.]

In no state in the union was the constitution which was recommended by the National Convention, more severely criticised and more zealously opposed, and in none was it more ardently and ably defended than in the state of New-York. Indeed, this state may be said to have furnished the principal author, and afterwards the champion for the defence of that instrument. It is almost unnecessary to say that I allude to General ALEXANDER HAMILTON. With him were associated John Jay, whose revolutionary services in the civil department, great legal learning, sound discriminating mind, high moral qualities, and unblemished purity of character, gave him a powerful influence with the public; Robert R. Livingston, a man of fine address, possessing a great landed interest in the central counties on the Hudson's river, standing at the head of a powerful and influential family, and holding the highest judicial office in the state, and Gen. Schuyler of Albany, together with the Van Rensselaer family, possessing, deservedly, great influence with the people inhabiting the section of the state, where they resided, with many others eminent for their talents and standing in the community.

In the front ranks of the other party stood GEORGE CLINTON, who probably had a stronger hold on the affections of the people, than any other citizen of the state. He may be said to have been the manufacturer of his own fortune. His father was an emigrant from Ireland, and at an early period settled in Little Britain, in the county of Orange. Although not highly distinguished either for wealth or talents, he was much respected for his patriotism

and private virtues. He officiated as a county judge, and during the French war was a colonel in the British army which invaded Canada. The property which he brought with him from Ireland, and that which, by his industry and economy, he accumulated in this country, enabled him to bring up his family well, but not to leave them rich. George was his youngest son, and was bred a lawyer. Shortly after he completed his studies, he was appointed by Sir George Clinton, the Colonial Governor, to whom the Clinton family are said to have been distantly related, clerk of the county of Ulster.

Mr. George Clinton was one of the earliest friends of the American cause, and was in grain and in principle a republican. He possessed a clear and logical mind, and great decision of character. His talents and private merit soon rendered him conspicuous among the patriots of that day, and he was almost unanimously elected the first Governor of the state of New-York. This election is the more honorable to him, when it is considered that there were at that time in the state, several distinguished friends to American Independence, who were men of great wealth and powerful family connections; and that Mr. Clinton was elected without any of these adventitious aids. At the time when the controversy in relation to the adoption of the new constitution commenced, Gov. Clinton had been repeatedly elected by the people to the first office in the state; he had stood at the helm and discharged his duty ably and faithfully during the long and, perilous revolutionary struggle, with the fortitude of a hero, and the zeal and devotedness of a patriot; and clothed as he was, by the constitution of the state, with the power of distributing the patronage of the government, it cannot fail to be perceived that such a man must have been capable of producing a very great impression upon the public mind. Among the most distinguished



individuals who united with him in his opposition to the adoption of the Federal Constitution, were Robert Yates, afterwards for a long time Chief Justice of the Supreme Court, John Lansing a delegate from this state in the convention that formed the constitution, and subsequently Chief Justice and Chancellor ; and, though last named, by no means the least, Mr. Melancton Smith.

To exhibit the manner in which some of the points in controversy arose between the two parties, it is proper to state, that in pursuance of a recommendation of commissioners from several states who had met at Annapolis in Maryland, of whom Gen. Hamilton was one, in September, 1786, "to take into consideration the trade and commerce of the United States, and to consider how far an uniform system in their commercial intercourse and regulations might be necessary to the common interest and permanent happiness" of all the States, Congress, in February, 1787, resolved that it was expedient that on the second Monday in May, then next, a convention of delegates who should have been appointed by the several states, should be held at Philadelphia for the *sole and express purpose* of revising the Articles of Confederation, and reporting to Congress and the several legislatures, such alterations and provisions therein as should, when agreed to in Congress, and confirmed by the states, under the Federal Constitution, be adequate to the exigencies of government, and the preservation of the Union.

The views of the politicians of the state of New-York, on the questions involved in this recommendation, were fully developed in the debates and proceedings which took place in the legislature which convened in the city of New-York, in the winter of 1787. But in order properly to understand them, it is necessary to state that in 1781, in pursuance of the recommendation of Congress, an act was passed which granted to the United States the

import duties to be collected in the port of New-York, and provided that those duties should be levied and collected in such manner and form, and under *such penalties and regulations, and by such officers as Congress should, from time to time make, order and appoint*. But in March, 1783, (*after the peace,*) this act was repealed and an act was passed again, granting the duties to the United States, but directing their collection *by officers who should be appointed by the state*. This law was afterwards modified at the request of Congress, so as to render the collectors amenable to and *removable* by the authorities of the United States. In reference to this proceeding, Gen. Schuyler, on the 4th May, 1783, wrote to Gen. Hamilton, "Although our legislature seems still inclined to confer powers on Congress adequate to the proper discharge of the great duties of the sovereign council of these states, yet I perceive with pain that some, chagrined at disappointment, are already attempting to inculcate a contrary principle, and I fear it will gain too deep a root to be eradicated, until such confusion prevails as will make men deeply feel the necessity of not retaining so much sovereignty in the states individually."

Mr. J. C. Hamilton, in the life of Gen. Hamilton, vol. 2, p. 387, remarks, that "early in the year seventeen hundred and eighty-four, a motion was made in the legislature of New-York, urging the abolition of the offices of superintendent of finance and of continental receiver, which was followed by the acts establishing a custom house and a revenue system."

"The immense and improvident speculations made on the return of peace, poured into the coffers of that state a large revenue. This was subsequently increased by the navigation acts of other states, which rendered New-York the entrepôt of the whole region east of the Delaware, and presented to her tempting prospects of future wealth."

“To whatever cause it may be attributed, it became the settled policy of New-York to defeat the proposition for a national revenue. A measure conforming with the recommendation of Congress was proposed in the legislature in seventeen hundred and eighty-four, and failed. It was again brought forward in seventeen hundred and eighty-five, and again failed by two votes in the senate.

“At the close of the session of seventeen hundred and eighty-six, in which the exertions of Schuyler to induce the grant were most conspicuous, a law was enacted giving the revenue to Congress, but reserving to the state ‘the sole power of levying and collecting’ the duties; the conferring of which power on Congress, was an indispensable and express condition of the acts of some of the other states. Instead of making the collectors amenable and removable by Congress, it subjected them to the exclusive jurisdiction of the state courts.

“It also rendered the duties payable in the bills of credit of the state, and thus so entirely contravened the plan of seventeen hundred and eighty-three, as to be equivalent to its rejection. This enactment was defended by the argument that Congress, being a single body, and consequently without checks, would be apt to misapply the money arising from it.”

Mr. Hamilton then proceeds to remark, that Congress “perceiving that no benefit could be derived from the law recently passed by this state; that if acceded to, the acts of twelve adopting states (for Rhode Island had meanwhile concurred) would, by their conditions, which required the concurrence of all the states, become void; that the provision which rendered the duties payable in bills of credit was most pernicious, as it would, on the same principle, admit of all the paper money of the other States at various rates of depreciation, thus reducing the revenue, producing an inequality in the public burdens, and deter-

ring the states averse from paper money from engaging in the measure—Congress treated it as a nullity.”

Mr. H. adds that they thereupon “passed a resolution requesting Governor Clinton to convene the legislature for the purpose of submitting this subject again to its consideration. To this application, involving such momentous consequences, Clinton replied by letter, stating that ‘he entertained the highest deference and respect for the authority of Congress, and that it would afford him the greatest pleasure to have it in his power to comply with their recommendations, but that he had not the power to convene the legislature before the time fixed by law for their stated meeting, except upon ‘*extraordinary occasions*,’ and as the present business had already been particularly laid before them, and so recently as at their last session received their determination, it cannot come within that description.’”

The Governor, in his speech to the legislature at the opening of the session of which I am speaking, gave a statement of this application which Congress had made to him to call an extra meeting of that body; and his reasons for refusing to comply with the request, being the same as that which he had assigned in his reply to Congress, namely, that inasmuch as the legislature had but a few months before deliberated upon and solemnly decided that very question, he could not consider the recommendation of Congress a circumstance which created that *extraordinary occasion* contemplated by the constitution which alone authorized him to require a meeting of the legislature.

On the legislature which was now in session, was devolved the duty of deciding whether this state would send delegates to the National Convention which was to assemble in May following; and if they should decide that question in the affirmative, then it would become their duty to select and appoint the delegates. For this reason

the friends of a national government early saw the necessity that General Hamilton should be one of the members of the State legislature, and take a part in the discussion of these important and interesting questions. To effect this very desirable object, the most strenuous efforts were made at the April election to elect him a member from the city of New-York, and by the vigorous exertions of the merchants of that city, aided by his political friends, he was chosen.

Gen. Schuyler, the father-in-law of Gen. H., also a zealous friend of the establishment of an energetic national government, was at that time a member of the Senate. The national politics of these gentlemen, both eminent for their talents and public services, placed them in a position adverse to Gov. Clinton, and around them the opposition in each house rallied. Mr. Hamilton had been placed at the head of the committee to draw an answer to the Governor's speech, and he drew one which was silent in respect to that part of it which stated his refusal to call an extra session of the legislature at the request of Congress. The friends of the governor, the leading and strong man among whom was Samuel Jones, a very learned and able lawyer, afterwards Comptroller, and the father of the late Chancellor Jones, offered an amendment to the answer, as reported by Mr. Hamilton, approving of the conduct of the governor in refusing to convene the legislature upon the occasion to which I have referred. On the question of adopting this amendment, an interesting debate ensued, conducted principally by Mr. Hamilton and Mr. Jones. The point in controversy, was whether the occasion of the proposed call was such an *extraordinary* one as, by the constitution, authorized and required the governor to make such call; but in the progress of the discussion, the claims of the confederated States on this state, and the relations which it had and ought to have

with the confederacy, were considered. This opened a wide field of debate, which was conducted with great ability and some asperity, on both sides. On the question being taken, the amendment was adopted by a vote of 36 to 9. If this vote is to be considered as a test vote of the strength of parties on the question, whether any material alterations ought to be made in the Articles of Confederation—and it probably is—it is obvious that the anti-federalists at that time held a powerful preponderance in the popular branch of the legislature. In the senate, too, there was a large majority who concurred with the governor. The legislature decided in favor of sending delegates to the National Convention, and appointed three delegates. The political principles of the two houses accounts for the reason why a majority of the delegates, (Mr. Yates and Mr. Lansing) were opposed to any material alteration in the Articles of Confederation, or rather to *the formation of a new government*, while the election of Gen. Hamilton by the same bodies of men, so large a proportion of whom accorded with the views of Gov. Clinton, affords a demonstration of the liberality with which the partizans of that day conducted towards each other. So far from making a war of extermination on their opponents, or treating them as enemies to the country, the majority of the legislature of 1787 were willing and desirous that the views and wishes of the minority should be represented in the grand National Convention about to be held; and therefore elected General Hamilton, their most able, zealous and ultra opponent, as one of the delegates.

By a reference to the resolution authorizing the appointment of delegates to the National Convention, it will be seen with what extreme caution and jealousy of their rights as an independent sovereignty, the New-York legislature consented to become a party to that convention.

The resolution declared that the delegates were appointed, "for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and amendments therein, as shall, when agreed to in Congress, and confirmed by the several states under the Federal Constitution be adequate to the exigencies of the government, and preservation the union."

The National Convention assembled at Philadelphia, at the time appointed by Congress.

In reviewing the proceedings of that distinguished assemblage of men, it will be found that they were divided into three classes.

One portion of them desired to confine the convention to an enlargement of the powers of the then existing Confederacy, or rather to an *amendment* of the Articles of Confederation. To this object the delegates from New-York were, by the above resolution, in the opinion of Messrs. Yates and Lansing, restricted; accordingly these gentlemen, after a majority of the convention had determined to propose a constitution which, instead of *amending* would *abolish* the articles of the confederacy, withdrew from it, though in the midst of its most active operations; but Mr. Hamilton elected to remain on his own responsibility, and take a part in the deliberations of that body. The delegates from New-Jersey and Delaware, and the celebrated Luther Martin of Maryland, entertained views similar to those of Mr. Yates and Mr. Lansing in respect to the proper business and duty of the convention. The opinion of these gentlemen may be inferred from the resolutions proposed by Mr. Patterson from New Jersey. (See Pitkin's U. S. History, 229.)

The only material alteration in the Articles of Confederation proposed by these resolutions, seems to be the creation of an executive department to consist of one or more

individuals who were to possess very little power, except that of appointing certain officers and *directing* military operations, the creation of a judiciary, or rather a court of admiralty, and a declaration that the constitutional acts of Congress and all treaties should be the *supreme law of the states*. The resolution further proposed "that if any state, or *body of men* in any state, should oppose or prevent the carrying into effect such acts, or treaties, the federal executive should be authorized to call forth the powers of the confederated states sufficient to compel obedience to such acts, or enforce an observance of such treaties."

The antipodes to this project were headed in the convention by Gen. Hamilton, whose desire was to create a strong government, purely national. Mr. Hamilton's plan was that the members of the house of representatives should be chosen for three years; that the states should be divided into districts for the purpose of an election *by the people*, of electors who should elect the senators; that the people of the same districts should choose electors who were to *elect electors* of president—the senators and president to hold their offices during good behaviour; the president to have a negative on all bills which might pass both branches of the legislature; to have the power, with the advice of the senate, to make treaties, to have the sole appointment of the heads of departments, and the appointment of all other offices by consent of the senate. His plan of a judiciary establishment, was in substance, the same as that which was finally adopted; he proposed that all impeachments should be tried by a court to consist of the chief or senior judge of the superior courts of law in each state, provided such judge held his office during good behaviour, and had a permanent salary, and that the laws of the states, contrary to the constitution and laws of the United States should be utterly void.



But the most important innovation upon the sovereignty of the states proposed by Gen. Hamilton was, that the governors of the states should be appointed by the president and senate, and that they should have an unqualified veto on all the laws which might be attempted to be passed by the state legislatures of which they respectively were governors.\*

\* Gen. Hamilton, it would seem, afterwards changed his opinion as to the propriety of a constitutional provision that the President should hold his office during good behaviour; or rather subsequent reflection convinced him that the democratic propensities of the people of the United States were so strong that policy required that an *experiment* should be made of electing a President periodically. In the subjoined letter, which he wrote to Col. Timothy Pickering more than eleven years afterwards, he states the views he adopted before the adjournment of the convention. From the whole tenor of this letter as well as from other acts and declarations of his, which I may hereafter have occasion to notice, it is evident that so late as the year 1803, which it will be remembered was shortly before his death, he had very little faith in the position that the people of the United States were capable of sustaining a democratic or even a republican representative government. He thought, however, "it was in itself right and proper that the republican theory should have a fair and full trial;" and with this view he reluctantly consented that the national executive should be periodically elected, and ultimately to other innovations that the majority of the convention made upon his scheme. But I will give his letter to Mr. Pickering, which, it appears, was written for the purpose of allaying the prejudices which were rife against him in consequence of his aristocratic principles. In my judgment it is calculated to produce a different and contrary effect.

"New-York, Sept. 16, 1803.

"My Dear Sir—I will make no apology for my delay in answering your inquiry some time since made, because I could offer none that would satisfy myself. I pray you only to believe that it proceeded from any thing rather than want of respect or regard. I shall now comply with your request.

"The highest toned propositions, which I made in the convention, were for a president, senate, and judges during good behaviour—a house of representatives for three years. Though I would have enlarged the legislative power of the general government, yet I never contemplated the abolition of the state governments; but, on the contrary, they were, in some particulars, constituent parts of my plan.

"This plan was in my conception conformable with the strict theory of a government purely republican; the essential criteria of which are, that the principal organs of the executive and legislative departments be elected by the people, and hold their offices by a *responsible* and temporary or *defeasible* tenure.

"A vote was taken on the proposition respecting the executive. Five states were in favor of it; among these Virginia; and though from the manner of voting, by delegations, individuals were not distinguished, it was morally certain, from the known situation of the Virginia members, (six in number, two of them, *Madison* and *Randolph*, professing popular doctrines,) that *Madison* must have concurred in the vote of Virginia. Thus, if I sinned against republicanism, Mr. *Madison* was not less guilty.

Between these two ultra classes, the one advocating a strong aristocratic national government ; and the other democratic governments, by the respective states, united by articles of confederation, varying in substance very little from a treaty of alliance, offensive and defensive, between independent nations, a THIRD PARTY was formed in the convention, which proposed the formation of a government partly national and partly federal ; a government elective and representative in its character, but which should represent the people in their numerical strength, and the states in their sovereign capacity. THE PEOPLE of the union were to be represented in one branch of the legislature and the STATES in the other ; while the national executive was to be created partly by the people and partly by the states. This scheme was substantially sketched in a series of resolutions offered by Mr. Randolph of Virginia, and probably mainly drawn by Mr. Madison, and from thence called "*the Virginia plan.*" (2 Pit. 226. 2 Ham.) A sufficient number of the ultras on each side yielded to this middle course to constitute a majority of the convention ; and hence our present constitution, exclusive of the amendments subsequently proposed and made a part of it, was reported by the convention, and recommended by that body to be adopted by the states.

But the recommendation of the convention produced little effect on the opponents of their plan of government in the state of New-York.

One ground upon which the anti-federalists, (for so

"I may truly then say, that I never proposed either a president or senate for life ; and that I neither recommended nor meditated the annihilation of the state governments.

"And I may add, that in the course of the discussions in the convention, neither the propositions thrown out for debate, nor even those voted in the earlier stages of deliberation, were considered as evidences of a definitive opinion in the proposer or voter. It appeared to me to be in some sort understood, that with a view to free investigation, experimental propositions might be made, which were to be received merely as suggestions for consideration.

the opponents of the constitution were denominated) who were citizens of the large states, founded their opposition, was that the new constitution sacrificed too much to the small states. A moment's reflection will shew that there was much that was plausible, and indeed substantial in this objection. The new constitution proposed a voluntary surrender of political power by one class of men to another. To form a correct notion of the sacrifice on the part of the great states, it is only necessary to consider the matter in the light in which the question would be viewed, if it were an original one, and now for the first time presented to us. I will suppose the state of Delaware to contain sixty thousand inhabitants, and that the state of New-York contains two millions. The United States senate is a co-ordinate branch of the law-making power. Besides possessing equal, or all but equal power in the enactment of laws with the house of representatives, it is a controlling branch of the treaty making power, (and treaties are, by the fiat of the constitution, made the supreme law of the land) and it is an important branch of the appointing power, holding an unconditional veto on the distribution of all the patronage of the national government. Now suppose Delaware were to request New-York to give her as much power in this department of the national legislature, or which would be the same in substance, should ask that one citizen of Delaware should possess as much power in the U. S. senate as *thirty-three* citizens of the state of New-York? It strikes me that such a proposition, if it were now for the first time made, would not be very favorably entertained here. If such a proposal should not be regarded as a project to create a rotten borough system, I am quite sure it would be considered as very much like it. The manner in which this objection was answered, is too obvious and too well known to render it necessary to repeat it. But the great

and absorbing ground of opposition, was that the proposed constitution entirely departed from the principles of a confederacy, and constituted, as was contended, a consolidated national government vested with extensive powers, operating not upon the states but upon individuals; that it divested the states of their sovereignty; that it clothed the President with so much power and patronage, as in the hands of an unprincipled ambitious man would enable him to subvert the liberties of the people and usurp to himself despotic power; and that the people themselves were not secured against the gradual encroachment upon their rights, by the legislative, judicial and executive departments of the national government, by a bill of rights. "Should the system," said the ardent and eloquent Patrick Henry, "go into operation, what will the states have to do? To take care of the poor, repair and make highways, erect bridges, *and so on, and so on.* Abolish the state legislatures at once. For what purpose should they be retained?" 2 Pit. 273.

Gov. Clinton and his friends tenaciously adhered to the principles contained in the resolution of the New-York legislature for the appointment of delegates to the national convention. That resolution, they contended, confined the action of the delegates to the business of *amending* the Articles of Confederation, and by no means authorized them to create a new constitution.

Although the population of this state was then comparatively small, amounting probably to about two hundred and fifty thousand souls, the sagacity and the clear vision of Gov. Clinton and other distinguished opponents of the national scheme, must have enabled them to foresee the high destiny of the state of New-York. They no doubt took into consideration the facts that its territory stretched from the Atlantic ocean to the great inland seas of the west; that its southern frontier included the best harbor in

North America, and perhaps in the world ; that its soil was incomparably rich and luxuriant ; that water power for driving all kinds of machinery for manufacturing purposes was abundant in every part of the state ; that its facilities for artificial internal navigation were greater than any other equal portion of the known world ; that its climate was adapted to the production of a hardy and enterprising race of men, and was remarkably salubrious, and that nature had so formed our coast that the foreign trade for North America would naturally centre at the port of New-York. This prospective view must have convinced them that New-York would become, what in fact she now is, THE EMPIRE STATE. It is not, therefore, at all surprising that her citizens should have scrutinized with an anxious and jealous eye, a scheme which, if carried out, might lessen the importance of the state, and would throw into a general fund, or common national stock, that rich revenue which would not fail of being gathered from goods imported into the city of New-York.

Mr. Clinton, being governor, was the distributor of nearly all the state patronage. He was also ex-officio commander of the army and admiral of the navy. It was, therefore, more than insinuated by political writers of the day, that personal ambition and a love of power had a controlling influence in inducing him to oppose the adoption of the federal constitution ; or at any rate that sinister views and feelings sharpened his opposition, and added fire to his zeal.

It is somewhat remarkable that Gov. Clinton in his speech to the legislature in 1788, although the United States Constitution must have been long before that time reported and published, and although it had been recommended that the legislature of each state should provide by law for the choice of delegates by the people to decide on the question whether the proposed constitution should be

adopted, was wholly silent on that subject. He does not make the slightest allusion to that great and important question, which, while he was penning his speech, he well knew excited the anxious solicitude of all men, not only in this, but in every state in the Union.

The subject was, however, brought before the legislature on the 17th of January, 1788, by a resolution offered by Mr. Egbert Benson, the purport of which was that a convention, the members of which should be elected by the people, should be called in pursuance of the recommendation of Congress. Mr. Schoonmaker, a member from Ulster, thereupon proposed a preamble to the resolution to the following effect: "Whereas the said convention of the states, instead of revising and reporting alterations and revisions in the Articles of Confederation, have reported a *new constitution* for the United States, which, if adopted, would materially alter the constitution and government of this state, and greatly affect the rights and privileges of the people thereof." Therefore, &c.

Mr. Jones in support of this preamble, said, "when the members of the convention were elected, they were authorized only to *amend* the constitution and make such alterations therein as upon being confirmed by Congress, and the respective state legislatures would be more adequate to the preservation of the Union. \* \* \* The convention had gone beyond their powers, and instead of *amending* the constitution, had framed a *new one*."

The resolution, however, for the call of a state convention finally passed both branches of the legislature.

The election of delegates took place in the spring of 1788. The sole question which appears to have governed the electors in the choice of delegates, was whether the candidates were for or against the adoption of the new constitution. The people of the northern and middle counties were generally against, and of the southern

counties in favor of the measure. Very acrimonious publications appeared in pamphlets and in the newspapers on each side of the question. There were also written and published many very able dissertations both for and against the new scheme of government, and it was about this period that the celebrated numbers of the *Federalist*, written by Hamilton, Jay and Madison were published, extensively circulated and generally read.

In the city of New-York, John Jay, Alexander Hamilton, Chancellor Livingston, Richard Morris, then chief justice, and James Duane, mayor of the city, were chosen. The strength of the federal party in the city of New-York, and the personal popularity of Mr. Jay, may be inferred from the fact that out of 2833 votes, which were the whole number taken, he received 2735.

In the county of Albany, where the new constitution had been burned, it is said, in presence of some of the officers of the city of Albany,\* Abraham Ten Broeck,

\* The occasion which produced this occurrence, was as follows. The federalists of Albany on receiving news that the constitution had been ratified by the requisite number of states, appointed a day to celebrate the event. Having met on that day, they formed into a procession with the intention of marching through the principal streets of the city. They were led by Gen. Schuyler and Stephen Van Rensselaer. The anti-federalists on the same day came together; and some inflammatory speeches were made, and the constitution was burnt. While thus highly excited, the two parties met in Green-street, and the anti-federalists projected a scheme of preventing the march of the federalists through that street. They procured a cannon and loaded it with pebbles and gravel, with a view to discharge it in case the federalists should have the temerity to attempt to force a passage; but some of the more reflecting and moderate anti-federalists, in order to prevent such an outrage, without the knowledge of the majority of their political friends spiked the cannon. The belligerent parties were, however, by this time so much excited, that this prudent precaution did not prevent an affray.

Many of the federalists with a view of adding to the pomp of their celebration, were clad in military dress, and carried with them swords, guns and bayonets. It is now uncertain which party committed the first act of violence; it is only certain that they came to blows, and that the anti-federalists threw brick-bats and paving stones at the federalists, and were in their turn assailed with cutlasses and bayonets. Several persons were dangerously wounded, but fortunately none were fatally injured. Isaac Demarest, Esq., of Albany, who, though at that time quite young, was an eye witness of this transaction, has favored me with this account. Peter W. Yates, at that day a lawyer of considerable eminence, was one of the most active leaders of the anti-federalists in this fracas, and

Jacob Cryler, Francis Nicoll, J. Bloodgood, Peter Gansevoort, (the late Gen. Gansevoort,) John Lansing, jr., Robert Yates, Henry Outhout, Peter Vrooman, T. A. Ten Eyck, and Derick Swart, were the anti-federal candidates, and were elected.

The general result through the state, was that New-York, Westchester, Kings and Richmond counties chose federalists; the counties of Albany, Montgomery, Washington, Columbia, Dutchess, Ulster and Orange anti-federalists, and the delegations from Suffolk and Queens, were divided. The whole number of delegates was 67. This statement of their number and political character, is taken from the Albany Gazette of July, 1788, and which purports to have been copied by the Gazette from a Poughkeepsie Journal which contained the proceedings of the convention. Mr. William Jay, in his life of John Jay, (1 vol. p. 266) states the number of delegates at fifty-seven, and of this number he says "no less than *forty-six* were anti-federalists." In this I think he must have been incorrect.

Besides the eminent men elected from the cities of New-York and Albany, Gov. Clinton was chosen from the county of Ulster, Gen. James Clinton, the father of De Witt Clinton, from the county of Orange, Melancton Smith from the county of Dutchess, and sundry other eminent men from the counties situate on the North River. Indeed I think it reasonable to believe that this convention contained, if not all, a very large proportion of the men of influence and talents who were then on the political stage.

would probably have lost his life in the conflict, if he had not been saved by the address of Mr. Dennison, and furnished by him with a place of safety. Mr. Abraham G. Lansing, another anti-federalist, was also exposed to imminent danger. This, I believe, was the only instance in which the public peace was violated during this controversy.



It was organized on the 17th June, 1788, by the appointment of George Clinton president; and it immediately proceeded to form a code of rules for its government. On the 19th, the discussion commenced.

Chancellor Livingston opened the debate by a very eloquent address to the convention. He pointed out the necessity of the union to this state, especially on account of its peculiar local situation. He traced generally the leading and radical defects of the then existing confederation, and strongly urged the magnitude and importance of the question then to be considered; and the duty of the members of the convention, that they should divest themselves of every preconceived prejudice, and deliberate with the utmost coolness, moderation and candor.

The discussion of the various clauses of the constitution continued three weeks, during which several important amendments were proposed and adopted. In addition to the amendments which had been proposed by the convention of Massachusetts, (for which see 2d Pitkin's Civil and Political History of the United States, 267—8,) the New-York convention proposed (2 Ham. 281) "among others of less importance, that no persons, except natural born citizens, or such as were citizens on or before the 4th of July, 1776, or held commissions under the United States during the war, and had since July 4th, 1776, become citizens of some one of the states, should be eligible to the places of president, vice-president, or members of congress—that no standing army be kept up in time of peace, without the assent of two thirds of both houses—that congress should not declare war without the same majority—that the privilege of the writ of habeas corpus should not be suspended for a longer term than six months—that no capitation tax should ever be laid—that no person be eligible as a senator for more than six years in any term of twelve years; and that the state legislatures might

recall their senators—that no member of Congress be appointed to any office under the authority of the United States—that the power of Congress to pass laws of bankruptcy, should only extend to merchants and other traders—that no person be eligible to the office of president a third time—that the president should not command an army in the field without the previous consent of Congress—that Congress should not constitute any tribunals or inferior courts, with any other than *appellate jurisdiction*, except in causes of admiralty and maritime jurisdiction, and for the trial of piracies and felonies committed on the high seas; and in all other cases, to which the judicial power of the United States extended, and in which the supreme court had not original jurisdiction, the causes should be heard in the state courts, with right of appeal to the supreme or other courts of the United States—that the court for the trial of impeachments should consist of the senate, the judges of the supreme court of the United States, and the senior judge of the highest court in each state—that persons aggrieved by any judgment of the supreme court in any case in which that court had original jurisdiction, should be entitled to a review of the same by commissioners, not exceeding seven, to be appointed by the president and senate—that the judicial power should extend to no controversies respecting *land*, unless relating to claims of territory or jurisdiction between states or between individuals, or between states and individuals under grants of different states—that the militia should not be compelled to serve without the limits of the state for a longer term than *six weeks*, without the consent of the legislature thereof—and that Congress should not impose *any excise* on any article, (ardent spirits excepted,) of the growth, production, or manufacture of the United States, or any of them.<sup>11</sup>

On the 11th of July, Mr. Jay moved "that the constitution be ratified, and that whatever amendments might be deemed expedient, should be *recommended*." This motion called out the most vigorous opposition on the part of the anti-federalists. They had been elected with the express understanding that unless the proposed constitution should be materially altered, they should vote for its rejection; and no doubt they sincerely believed it would be unsafe to adopt it, as it came from the hands of the national convention. They therefore proposed to amend Mr. Jay's resolution so that it should read, "that the constitution be ratified *on the condition* that certain specified amendments should be made. A long, able and eloquent discussion followed; but before any decisive vote was taken, news arrived that the convention of New-Hampshire had adopted the constitution as reported by the national convention. It will be recollected that by an article of the constitution, when nine states should ratify it, it was then declared adopted, and of course the remaining states, which refused their assent to its adoption, were to be considered as seceding from the Union. The ratification of the constitution by New-Hampshire, furnished evidence that the requisite number of the states had adopted it. After the news of this event was received at Poughkeepsie, the question which the New-York convention had to decide was changed. It was no longer a question whether they preferred the new constitution to the Articles of Confederation; but the true question now was, whether they would secede from the Union? And here, in passing, I take leave to remark that Gov. Clinton and his friends discovered a defect in policy or party tact, in postponing to so late a day, the meeting of the New-York convention (for they had the power to fix the time of meeting,) because, if they had appointed an earlier day, the state of New-York, being at that time a cen-

tral state, and even then influential and powerful, if it had early decided against the constitution, its opinion and decision might have had sufficient influence with the other states to have prevented so many as nine of them from adopting it. This the anti-federalists should have done, instead of waiting until nine or ten states had met and decided in its favor, and thus changing the character and nature of the question from one of constitution making, to a question involving in it the tremendous consequence of a secession from the Union.

The federalists now proposed to amend the amendment offered by the anti-federalists, by substituting the words "*in full confidence*" for the words "*on condition*," so that Mr. Jay's resolution would read,

"*Resolved*, That the constitution be *ratified in full confidence* that the amendments proposed by this convention will be adopted."

To this resolution, a resolution of immense moment, a portion of the anti-federalists—I presume, under the confidential advisement of Gov. Clinton, (for Melancton Smith, his constant and unwavering friend, the man whom Gen. Hamilton regarded as his most formidable opponent, was one of them)—with great hesitation and reluctance, yielded their assent.

They were no doubt deeply impressed with the idea that New-York was sacrificing too much political power, and too great a proportion of the natural advantages secured to her by her geographical position, and with the painful apprehension that so much power by the proposed constitution was conferred on the general government, as might endanger the personal liberty of the citizen, and the independence of the states. On the other hand, the confusion then prevailing in the commercial regulations of the different states; the jealousies and collisions which it was reasonable to anticipate would grow up, and

already began to shew themselves among the states; the prostration of the credit of the national confederacy which at that time had occurred; the want of confidence evinced by the European governments in the ability of Congress to enforce the performance of treaties; the incompetency of the Articles of Confederation to enable Congress to regulate commerce, to resuscitate public credit and compel the performance of treaties; the improbability that the requisite number of states would concur in such amendments to the Articles of Confederation as suited the views of the anti-federalists; the danger which would inevitably result to the state of New-York, by a secession of that state from the Union; and the already threatened determination of the old southern district to separate from the other part of the state, and become an integral portion of that section of the Union which should adopt the constitution in case the convention should reject it, finally induced a sufficient number of the anti-federal members of the convention to vote in favor of the adoption of the constitution, as with the federalists to constitute a small majority of that body.

On this solemn occasion, Mr. Gilbert Livingston, who had been elected as an anti-federalist, and in truth was such, is reported to have expressed his own views, and probably the views and feelings of the political friends who acted with him, in the following manner:

“Mr. PRESIDENT—I hope for indulgence from this honorable house, that I may shortly state the reasons which actuate me, for taking the part I do in the business before us. The great and final question on the constitution is now to be taken. Permit me, sir, again to say, that I have had a severe struggle in my mind between *duty* and *prejudice*. I entered this house as fully determined on previous amendments, (I sincerely believe,) as any one member in it. Nothing, sir, but a conviction that I am

serving the most essential interests of my country, could ever induce me to take another ground, and differ from so many of my friends on this floor. I think, sir, I am in this, pursuing the object I had at first in view—the real good of my country. With respect to the constitution itself, I have the same idea I ever had—that is, that there is not safety under it unless amended. Sometime after we first met, sir, a majority of those in this house who opposed it, did not determine to reject it. Only one question then remained—which was the most eligible mode to ensure a general convention of the states, to reconsider it, in order to have the essential amendments engrafted in it? I do not mean to go into the reasons which have repeatedly been urged on this head, but only to say, that on the most mature and deliberate reflection on this momentous occasion, the result of my judgment is, that the adoption of the resolution on the table, with the bill of rights and amendments contained in it, and the circular letter to the different states accompanying it, is, considering our *present* situation with respect to our sister states, the wisest and best measure we can possibly pursue. I shall therefore vote for it.

“As an American, I am proud of my country—as a whig, I love it, and *feel* the duty of guarding its rights and freedom to the utmost of my power. And, sir, considering my situation in this house, as a representative of a respectable county, I feel the weight of duty increasing in a redoubled proportion.

“Sir, I know I was elected a member of this convention from a confidence the people had in my integrity; and, sir, I trust I am at this instant giving them an unquestionable evidence of it. The people of the county I have the honor to represent, are, in general, thinking and sensible, and I have not the least doubt, but they soon will,

if they at present do not, see the propriety of the measure here pursued.

“But, sir, I would beg leave to mention another consideration, of a nature infinitely superior to anything which possibly can be put in competition with it, as a motive of action—an approving conscience, and an approving God. I must hereafter stand at a bar, where, if the most trifling conduct must be accounted for, (and which I fully believe,) truly this most important transaction of my life will be strictly scrutinized. To that awful Being who will there preside, I would, with due submission and humility, appeal for the rectitude of my intentions. I hope, sir, the house will pardon me for having been so personal in this address. I owe it, sir, to them as well as myself, especially to a part of our side of the house, who I have no doubt, are actuated by the purest motives, and are equally conscientious with myself, on this occasion; and with whom and every friend to his country, I will steadily persevere in every possible means to procure this desirable object—a revision of the constitution. For a consistency in conduct to this honorable house, to my constituents, and to my country, on this occasion, with the utmost cheerfulness do I submit myself.”

The final vote was taken soon after the delivery of this speech. Fifty-seven members, exclusive of the President, (Gov. Clinton,) were present, thirty of whom voted for the ratification of the constitution, and twenty-seven against it. Mr William Jay (2 Jay, 269.) says the constitution was adopted by a majority of two votes only. In this he errs—I have now before me the names of those who voted and the manner in which they voted. There was a majority of three in favor of the constitution.

This momentous decision took place on 26th July, 1788. A correspondent from Poughkeepsie on this occasion

wrote to his friend in New-York in the following rather sarcastic manner:

“After ratifying, his excellency the President, according to a notice given last Thursday, addressed the convention *very politely*. The purport of which was, that until a convention was called to consider the amendments now recommended by this convention, the probability was that the body of the people who are opposed to the constitution would not be satisfied; he would, however, as far as his power and influence would extend, endeavor to keep up peace and good order among them. To which the members and spectators were very attentive, and more than a common *pleasantness* appeared in their countenances.”

A circular letter drawn by Mr. Jay, addressed to the other states of the Union, earnestly requesting them to co-operate with this state in an effort to obtain, by means of a convention to be called for that purpose, the adoption of the amendments which the New-York convention had annexed to their ratification, was then read and subscribed by all the members present. The convention immediately afterwards adjourned without day.



## CHAPTER II.

FROM THE ADOPTION OF THE UNITED STATES CONSTITUTION, TO THE  
GENERAL STATE ELECTION IN 1792.

AFTER the adoption of the federal constitution, and the organization of a national government in pursuance of it, and the unanimous election of Gen. Washington for the first President, all disputes about the principles contained in the constitution seemed for a moment to subside, and all men appeared to unite in supporting the general government in the exercise of its legitimate functions. Judge Yates, whom we have seen zealously opposing the constitution, both in the national and state conventions, a few days after the ratification at Poughkeepsie, in giving a charge to the grand jury in Albany, stated to them that, although "before the constitution was ratified he had been opposed to it, it was now his and every other man's duty to support it." But notwithstanding this apparent general acquiescence, the parties which had been formed in the state of New-York, on the question of adopting the United States constitution, still continued to exist, although the cause of their political association had ceased. The patronage of the national government, through the influence of Gen. Hamilton, Mr. Jay and Gen. Schuyler with the president, was generally bestowed upon men either personally or politically hostile to Gov. Clinton; and Gen. Hamilton, it will be found, always spoke of him unfavorably. Accordingly, John Jay was appointed chief justice of the United States; James Duane judge of the district of New-York; Richard Harrison, United States attorney, and William S. Smith, marshal; all active and zealous opponents of Gov. Clinton. Gen. Hamilton himself, who was at the head of the opposition to the

Clinton party, and was indeed the life and soul of that opposition, was made secretary of the treasury of the United States. Although these gentlemen were all of them eminently fitted for the offices to which they were respectively appointed, yet while such men as Melancton Smith, Judge Yates, &c. &c. were to be found among the friends of Gov. Clinton, it is not to be presumed that this exclusive selection of his opponents as the recipients of the bounty of the United States government, would have been made in the entire absence of party views. There seems to me good reasons for believing that the design of Gen. Hamilton and his federal friends in this state, who had the ear of Washington, was, so to use the national patronage as to curtail the influence of Gov. Clinton, and finally prostrate both him and his party. But Mr. Clinton was still strong in the affections of the people. A majority of the legislature was with him, and the absolute control he held over the patronage of the state, gave him an influence far greater than the patronage of the general government would have conferred on any individual citizen, if the power of distributing it had been vested in that individual alone.

There were in the constitution of this state, which was adopted in 1777, two anomalies. The one was the council of revision, composed of the chancellor, judges of the supreme court and governor, which held a negative upon all laws unless passed by two-thirds of both houses of the legislature; and the other was, the organization of the appointing power. That power was created in the following manner: The state, for the purpose of electing senators, was divided into four great districts, the southern, middle, eastern and western. Out of each district, once in every year, the assembly were required openly to nominate and appoint one senator, which senators when thus selected, were, together with the governor,

to form a council of appointment. The governor had a right to give a casting vote, but had no vote for any other purpose. He was constituted the president of this board, and by the 23d article of the constitution, he was required "with the advice and consent of the council, to appoint all officers" whose appointment was not otherwise provided for in that constitution. Under this clause, the governor claimed and exercised, and in my judgment, rightfully, (although that claim, when attempted to be exercised by Gov. Clinton's successor, was resisted,) the exclusive right of nomination. All civil and military officers, from the heads of the departments, chancellor and judges of the supreme court, down to and including all justices of the peace and auctioneers, with the exception of the state treasurer and a few petty city and town officers, were thus in effect, appointed by the governor.

Perhaps it may be as well to remark in this place as any other, that the form of the government of New-York, was originally less democratic than that of any other state in the Union. This was probably owing to two causes. The one was, that at the commencement of the revolution, there was more of aristocracy here than in any other state. In the city of New-York, there were several wealthy, and what, although the country was young, may be called ancient families. In Westchester were the Morrises and Van Cortlands; along the North river, were the Livingstons, Coldens, &c.; at Albany, were the Van Rensselaers and Schuylers; and as far west as Johnstown, the powerful and popular Sir William Johnson had stationed himself. Several of these families held large tracts of land, and derived a princely support from a numerous tenantry. Such a condition of things must have created different manners, a different current of thought and reasoning, and in fact, an entirely different

state of society from that which existed in most of our sister states, and particularly those of New-England.

The other cause which I shall mention, is that the constitution of New-York, was one of the first that was framed. That pure and patriotic lover of liberty, John Jay, who was its principal author, had neither precedent nor experience to guide him. He knew from the history of ancient republics, that national liberty had been often endangered and sometimes annihilated, by that state of anarchy which resulted from vesting too much power in the multitude; and was anxious to guard against it. Hence the independent tenure of office of the state judiciary; hence the restriction on the right of suffrage, and hence the immense patronage conferred by the constitution of 1777, on the executive.\* Mr. Jay did not at that time know—he could not know, what a flood of light the common school system was about to pour upon the mass of mind. He did not anticipate that a moral revolution in the human intellect was to succeed the political revolution in the United States. [\*See Note K.]

But if the patronage placed by the constitution in the hands of Gov. Clinton was great, certain it is that few men ever lived in this or any other state, who knew better how to render that patronage subservient to the political views of himself and his friends, and at the same time avoid any just ground of complaint on the part of the public. He knew men, and knew them well; and knew how by the means within his power, to mould them to his purposes; while his sagacity and prudence prevented him from resorting to violent acts, or to an apparent proscriptive system against those who differed from him in opinion. In the exercise of the appointing power, his policy, though liberal, was steady; and all his appointments seem to have been, and no doubt were, well calculated to sustain himself and his party against the weight of character and in-

fluence of his opponents, wielding as they did, the whole patronage of the general government

On the 13th Oct., 1788, the governor issued a proclamation requiring the legislature to meet at Albany on the eighth day of December, alleging that events had occurred since their last meeting, which rendered it necessary that they should convene at an earlier day than that fixed by law for their annual meeting. On the day appointed, the legislature met, and John Lansing, Jr., was unanimously elected speaker of the assembly.

The governor in his speech, stated to the two houses, that he had convened them at that early day, that he might seasonably lay before them the proceedings of the convention at Poughkeepsie, and the ordinance of congress for putting in operation the constitution for the United States, which had been adopted by that convention. He invited the attention of the legislature to the amendments proposed by the New-York convention, and to the declaration of rights which accompanied the ratification, and he alleged that the act of ratification was assented to "on the express confidence, that the exercise of different powers, would be suspended until it should undergo a revision by a general convention of the states." He therefore urged them to use their best endeavors for effecting a measure (a general convention,) so earnestly recommended by the convention, and anxiously desired by their constituents."

I cannot persuade myself that so sagacious a politician as Gov. Clinton, seriously anticipated that another national convention would or could be called. It seems more probable that this recommendation, and the early call of the legislature, were intended to afford evidence of the sincerity of his past opposition to the federal constitution, and as a manœuvre to keep his party together in the state of New-York. Eleven states had adopted the con-

stitution in the form reported by the national convention, and most of them, I believe, without suggesting any material alterations. Was it to be expected that these states would consent to give up all they had done, suffer the great questions which had been settled by a majority of the states to be again agitated, and put every thing afloat by the call of a new convention ?

On the 15th of December, the two houses proceeded to elect five delegates to represent the state in the continental congress. In the election of these delegates, the party lines were distinctly developed. The delegates supported by the anti-federal party in the assembly were, Abraham Yates, Jun., David Gelston, Philip Pell, John Hathorn, and Samuel Jones; those supported by the federalists were Ezra L'Hommedieu, Egbert Benson, Leonard Gansevoort, Alexander Hamilton, and John Lawrence. The anti-federal candidates were nominated by the assembly by an average majority of about ten votes, but the senate nominated Mr. L'Hommedieu and the other federal candidates. Upon a joint ballot the anti-federalists were elected. This vote shows that the federalists had gained considerably in the assembly since the session of 1787, and had actually obtained a majority in the senate. It is worthy of remark that, although by the United States constitution, the government under it was to go into operation the succeeding spring, and therefore, provision by a law of the respective states for the appointment of electors of president and vice-president, and for the election of senators and representatives in congress, was required to be made, the governor in his annual address, did not allude to the subject. The senate, however, early sent to the assembly, a bill providing for the appointment of presidential electors, but on the 22d of December, the house, by a vote of 33 to 21, on the motion of Mr. Adgate, rejected the bill. The assembly, on the same day,

in committee of the whole, resolved that a committee be appointed to draft an address of the legislature to congress, requesting that body as early as possible, to call a convention for the purpose of proposing amendments to the constitution of the United States. These acts show very conclusively the temper and feelings of the party which held the majority in the assembly. But I cannot persuade myself that such men as Samuel Jones, Gilbert Livingston, Edward Savage and other members of that body, really entertained an expectation that a second convention would be called, or that the constitution as adopted, would not go into operation. I regard their movements as having been prompted solely by a desire of exciting public attention, and of disciplining and more effectually combining together their party, of which Gov. Clinton was the head. Accordingly we find that provision was shortly afterwards made for the appointment of electors of president and vice-president, and on the 19th January, Mr. Jones (an anti-federalist) introduced into the assembly a bill prescribing the time and manner of choosing senators of the United States. But the two houses could not agree on the mode of choosing senators, the consequence of which was, that no senators in congress were elected by that legislature, and New-York was not represented in the United States senate, during the first session of the first congress. (2) Presidential electors were, however, chosen, and a law was passed by the New-York legislature for dividing the state into Districts, and providing for the election of six members of the house of representatives of the United States. ! Egbert Benson, William Floyd, John Hathorn, Jeremiah Van Rensselaer, and Peter Sylvester, were, under this law, elected the first members of congress from this state, under the present constitution.

During this session of the New-York legislature, the act "for the amendment of the law and better advancement of justice" was passed. This important statute, which not only greatly improved the practice of law, but introduced some new and valuable improvements in our system of jurisprudence, was drawn by Samuel Jones, and probably its passage was in a great measure effected through one or both branches of the legislature, (for it encountered a vigorous opposition in the senate,) by his address, talents and influence. This act, together with many other important laws, particularly those relating to real estate, were drawn by that great man and eminent and learned lawyer. They are, it is true, mainly transcripts from, and digests of, the British statutes, but the extreme care and accuracy with which he executed this task, afford decisive evidence of clearness of intellect and great legal acumen. [See Note L.]

The term of office of Gov. Clinton would expire in July, 1789, the political year under the old constitution terminating at that period of time. As the election for governor was to take place in April following, that circumstance added to the excitement in the ranks of the two parties; and their movements, both as respected measures and the state appointments, appear to have been made with some reference to that event. I shall relate one instance of the management of the governor, with regard to an important appointment which was proposed.

The supreme court at that time consisted of three judges only. It was urged, and at this juncture particularly pressed by the federalists, that the increase of population, business and consequent litigation in the state, required the appointment of an additional judge; and it will not be forgotten that under the old constitution, the council of appointment might, in their discretion, increase the number of judges, it being, however, optional with the le-



gislature whether they would make provision for the salary of such additional judges. The members of the council of appointment chosen, in 1788, were Jacob Swartwout, David Hopkins, Lewis Morris and Philip Schuyler, a majority of whom were federalists. From a letter purporting to have been written by a member of the legislature, published in the Albany Gazette, in January, 1789, it appears that early in the session, the members of the council, urged the governor to call them together for the purpose of appointing a fourth judge. "He gave them for answer," (says the letter writer,) "that when his business would admit, and necessity required, he would do so. *The next day* the house elected a new council, consisting of Messrs. Van Ness, Williams, Townsend and Hathorn, all anti-federalists."

The success of the federalists in procuring the adoption of the United States constitution, and the disposition generally manifested by the people to support the general government, induced their leaders in New-York and Albany, to make a vigorous opposition to the re-election of Gov. Clinton; and the open and zealous opposition he had made to the adoption of the federal constitution, inspired them with sanguine hopes of success. Their great difficulty was to find a suitable and strong candidate. In the year 1785, Mr. Jay had been applied to, to stand a candidate for governor, by Gen. Schuyler and other distinguished federalists, but he peremptorily declined. His reasons for declining are contained in a letter addressed by him to Gen. Schuyler, dated June 10, 1785. They are creditable to him as a citizen and a patriot. He stated, that "if a change had, in the general opinion, become not only advisable but *necessary*, and the good expected from that change depended on *him*," the objections he then made, would have yielded to the consideration that a good citizen ought cheerfully to take any station which on such

occasions, his country might think proper to assign to him, without in the least regarding personal consequences; but that he had arrived at the conclusion that such occasion did not then exist. (1 Jay, 198.) In 1789, the official services of Mr. Jay in organizing the new national government, were much needed; and we have seen that he was soon after placed at the head of the judiciary of the United States. He therefore was not to be thought of.

On the 11th February, a meeting of Federalists was held in the city of New-York, at which Robert Yates was nominated as the opposing candidate to Gov. Clinton. At this meeting, Alexander Hamilton, Robert Troup, Wm. Duer, AARON BURR, and sundry other persons, were appointed a committee of correspondence to promote the election of Judge Yates; and on the 17th of February, Gen. Schuyler and Gen. Abraham Ten Broeck, in connection with several other citizens of Albany, together with Philip Livingston and Richard Harrison, of New-York, addressed a letter to him, requesting him to allow his name to be used as a candidate for governor, with a view to "heal the unhappy divisions in the country." To this letter, Judge Yates replied on the 24th of February, and consented to stand as such candidate.

The object which Gen. Hamilton and the leading federalists had in view, in selecting Mr. Yates as their candidate, is very obvious. It was true he had been a zealous and efficient opponent to the adoption of the new constitution, both in the state and national conventions. He could not therefore, have been their first choice. But the result of the preceding annual election, had indicated that a majority of the electors were in favor of sustaining Gov. Clinton, and they hoped by having Judge Yates for their candidate, to detach from Mr. Clinton so many of his political friends as combined with all the federalists, would procure the election of Mr.

Yates. That such was the object, is rendered the more certain from the fact, that chief justice Morris—who undoubtedly, would have better suited the majority of the federalists, had been spoken of, and who, there is good reason to believe, would have accepted the nomination, had it been tendered to him, by his letter dated and published 27th February, three days after Judge Yates accepted the nomination—publicly declined, alleging as a reason, that if he continued to permit himself to be mentioned as a candidate, the tendency would be to divide the votes of his political friends. In fact, the federalists in their address, according to Mr. Davis (1. *Memoirs of Burr*, 287.) issued on announcing the nomination of Mr. Yates, avow their preference to chief justice Morris. This sort of party management is generally weak and puerile, and always wrong. The legitimate base upon which parties in a free government are founded, is an honest difference of opinion in respect to measures;—and this is, at any rate, the pretence which all political parties put forth. To support therefore, a candidate for an important office who avows that he in principle is in favor of the measures to which we profess ourselves opposed, and upon which opposition, our party associations are ostensibly founded, is at once yielding the ground of principle, upon which we stand. Probably the declaration made by Judge Yates, in his charge to the grand jury at Albany, to which I have before alluded, may have been used by the federal leaders as an apology to their friends for supporting an anti-federalist; and possibly the declaration then made by Mr. Yates, may have been made in pursuance of a previous understanding between him and some of his former political enemies. It will be perceived that Col. Burr was appointed a member of the committee of correspondence, by the meeting in New-York, held on the 21st of February. He therefore, it seems, was one of the anti-federal-

ists who joined in the opposition to Gov. Clinton; and I find in the newspapers of that day that at Albany, Schenectady, and several other places, meetings were held, claiming to be exclusively anti-federal, who nevertheless resolved to support Judge Yates. I remark, however, in passing, that the assertion of Mr. Davis in his life of Burr, that he uniformly acted with the democratic party, is contradicted by his course at this election. [See Note V.]

(April, 1789.)—The election was warmly contested. It generally terminated in favor of the federalists.

The counties of New-York, Westchester, Dutchess, Columbia, Albany, and Montgomery, gave federal majorities, and generally elected federal members of Assembly, so that that party was now in the majority in that house, and in the senate they fully retained their strength; but Gov. Clinton was notwithstanding, re-elected by a majority of four hundred and twenty-nine votes. His election was saved by the county of Ulster;—the county in which he commenced his professional and political life. Out of twelve hundred and forty-five votes polled, Ulster gave Mr. Clinton ten hundred and thirty-nine. For the gratification of the curious, and to show the astonishing increase of votes in the state since the year of 1789, I will give the result of the canvass of that year in the several senatorial districts, reminding the reader in the meantime, that only freeholders voted for governor :

	<i>Clinton.</i>	<i>Yates.</i>
Southern District,.....	1885	1875
Middle       "       .....	2059	1175
Western       "       .....	2004	2761
Eastern       "       .....	443	148
	<hr/>	<hr/>
	6391	5962 ?

From the above statement, it will appear, that although the election was sharply contested, the whole number of

votes given in the (now) empire state, was but twelve thousand three hundred and fifty-three.

That Governor Clinton succeeded in this election, is a high evidence of his personal popularity. His friends around him were slain, but he himself walked off the field of battle in triumph.

On the 6th day of June, the governor issued his proclamation to convene the legislature at Albany on the 6th day of July following. They met on that day, and Mr. Gulian Verplanck, a member from the city of New-York, was elected speaker of the assembly without opposition. It will be recollected that in consequence of a disagreement between the two houses about the manner of electing United States senators, none were chosen by the legislature in 1788. The governor therefore, in his speech at the opening of the session, stated that the reason he had called an extra session was, that the legislature at the earliest day, might *again* have an opportunity of electing senators to represent the state in the senate of the United States; and he made no other specific recommendations. The answer of the two houses was respectful, and, in fact, a mere echo to the speech of the governor.

At this time the principal offices in the state were held by the following gentlemen:

Pierre Van Courtland, lieutenant-governor.

R. R. Livingston, chancellor.

Richard Morris, chief justice of the supreme court.

Robert Yates, and  
John Sloss Hobert, } associates.

Lewis Allain Scott, secretary of state.

Richard Varick, attorney general.

Simeon De Witt, surveyor general.

Mr. Egbert Benson had been attorney general, but upon being elected a member of congress, he resigned that of-

fice, and on the 14th May, 1789, Mr. Varick was appointed his successor.

The council of appointment were composed of Samuel Townsend, Peter Van Ness, John Hathorn, and John Williams, all anti-federalists. On the 29th September, the governor, by the consent of the council, appointed John Lansing, Jun., mayor of Albany, and Samuel Jones, recorder of New-York; Aaron Burr was, on the same day, appointed attorney general, in place of Mr. Varick, who had resigned.

In pursuance of the recommendation of the governor, the two houses immediately proceeded to make provision by law, for the choice of senators in congress, and on the 21st July, they passed a bill providing that when two senators were to be chosen, and each house nominated different persons, the senate *should* choose one of the persons nominated by the assembly, and that that house *should* elect one of the persons nominated by the senate, and that in case one senator only was to be chosen, and the two houses disagreed in their nominations, either house might offer to the other a resolution of concurrence from time to time, naming therein such person as the house in which the resolution originated, might think proper, until a senator should be chosen by the concurrence of both houses. This singular project did not receive the approbation of the council of revision, and they returned the bill to the legislature, with the following objections:

1. Because, by the constitution of the United States, the senators are required to be chosen by the state legislature. The council therefore argued that if in the choice of senators, the two houses do not act in their legislative capacity, no law is necessary, and the senators may be chosen by concurrent resolution. If the two houses act in their legislative capacity, then the senators must be ap-

pointed by a law passed in the usual form. [In the latter case, no senator could have been elected against the wishes of the council of revision, unless two-thirds of the members of both houses concurred.]

2. Because, when two senators are to be chosen by the mode proposed by the bill, one or both may be chosen contrary to the wishes of one branch of the legislature.

Two-thirds of both houses not being in favor of the bill, it was lost, and the legislature on the 19th of July, by *joint resolution*, appointed Gen. Philip Schuyler and Rufus King senators. Mr. King had then recently removed from the state of Massachusetts, which state he had for a considerable time next and immediately before his removal to this state, represented in the continental congress, and had distinguished himself for talents and usefulness in a manner highly creditable in that venerable and venerated body.

No other important business was transacted during this session.

At the winter session in 1790, on the 15th of January, Philip Livingston, John Cantine, Philip Schuyler and Edward Savage were elected members of the council of appointment. Mr. Livingston from the southern and Gen. Schuyler from the western districts were federalists, and Mr. Cantine from the middle, and Mr. Savage (the father of the late chief justice John Savage) were republicans, a name which the party headed by Gov. Clinton, began now to assume. I am inclined to think, although I am not sure of the fact, that all the senators from the middle and eastern districts were republicans, and that for this reason the federal majority in the assembly elected Mr. Cantine and Mr. Savage.

It must not be forgotten, that Gen Schuyler was at that time a senator in congress, which by the bye, was then in session, he at the same time holding his seat as a senator

of this state, and as a member of the council of appointment. It is somewhat singular that under such circumstances he should have been elected by the assembly as a member of the council. It is more than probable that as the relations of the state with the general government, were just being commenced, the incompatibility of the the two offices was not thought of at the time the council was chosen, for in less than two weeks afterwards, January 27th, the assembly resolved 34 to 22—

1. That it was incompatible with the United States constitution for any person holding an office under the United States government, at the same time to have a seat in the legislature of this state. 2. That when a member of the state legislature was elected or appointed to office under the United States, (he as I presume, accepting such office) his seat in this body should be and was declared vacant.

These resolutions passed as well the senate as the assembly, and thereupon the senate resolved that the seat of James Duane, a senator from the southern district, who had been appointed United States district judge, of Philip Schuyler from the western district, who was a senator in congress, of John Hathorn, a senator from the middle, and John Lawrence, a senator from the southern district, who were members of the United States house of representatives, were vacant.


There was obviously a most conclusive reason why the same persons could not be members of the national and state legislature at the same time, for in such case neither legislature could compel the attendance of their own members without the danger of a collision with the other. After the passage of these resolutions, Mr. Cantine, on the 3d April, raised the question in council, whether, as General Schuyler was not then a member of the senate, his seat at that board had not become vacant?



Mr. Livingston offered a resolution to the effect, that after the assembly have appointed a senator a member of the council, if his seat should afterwards be vacated by the senate, this board are incompetent to disqualify and vacate the seat of such member. The question was of course novel, and certainly curious, and somewhat difficult to decide. On the one hand the constitution required that a member of the council of appointment, should be a senator, and on the other, if an expulsion by the senate would disqualify a person from acting as a member of the council of appointment, then the majority of the senate would possess a control in relation to the persons of whom the appointing power should be composed, inconsistent with what was intended by the framers of the constitution.

I find that a case occurred as early as the year 1781, which brought up this same question, but which I do not perceive was referred to on the present occasion.

In October, 1780, Ephraim Paine, a senator, was elected a member of the council of appointment. During the succeeding winter session, he was expelled from the senate. After his expulsion, the assembly elected Arthur Parks, a senator from the middle district, a member of the council in lieu of Mr. Paine. On the 29th March, Mr. Parks took his seat at the council board, but it appears from the records of the proceedings of that board, [Book B. p. 221.] that the council unanimously protested against his right to a seat, and entered their protest on the minutes. What is somewhat remarkable is, that although Mr. Parks himself signed the protest, he continued to act as a member of the council till another was chosen the next year by the assembly. It does not appear that the council of 1790, acted on the proposition either of Mr. Cantine, or Mr. Livingston, but a day or two after these propositions were made, Mr. Savage moved that the opin-



ion of the legislature, on the questions before the council, be requested. That motion was concurred in, and on the 5th April, Governor Clinton sent a message to the assembly, informing them of the proceedings in the council, and requesting their opinion as to the proper course which the board ought to take in relation to Gen. Schuyler.

The assembly, after some discussion, resolved, that if by any legal disability, the seat of a senator becomes vacant, the consequences resulting from such vacancy in relation to his subsequent acts, is a question of law, and therefore it was improper for the house to express any opinion on the questions growing out of the message, unless a bill embracing those questions should be presented to them, in which case it would then become their duty to act as a branch of the law making power.

Gen. Schuyler persisted in his right to a seat at the appointing board ; for at a subsequent day an objection was again made in the council to his appearance there, but he himself moved that the council proceed in the despatch of its ordinary business. Whether the question arising on this motion in form, was decided by the council, does not appear; but it is certain the general continued to act as a member of the council until a new one was the next year chosen.

About this time, Richard Morris, the chief justice, resigned his office, and Robert Yates was appointed to succeed him. By the resignation of chief justice Morris, and the appointment of Judge Yates in his place, a vacancy of an associate judge was created. Egbert Benson was the federal candidate, and received the votes of general Schuyler and Mr. Livingston ; John Lansing, Jun., was the republican candidate, and was supported by Messrs. Cantine and Savage, and appointed by the casting vote of the governor. About the same time Abraham Yates, Jun., was appointed mayor of Albany, Peter

Gansevoort sheriff, and Richard Lush clerk. These appointments were also made by the casting vote of the governor, Gen. Schuyler and Mr. Livingston voting for Gen. Ten Broeck for mayor, and John Tayler for clerk.

It would seem from the fact that the dissenting councillors caused to be entered on the minutes, the names of the persons whom they wished appointed, instead of a mere entry of *no*, to the governor's nomination, that the exclusive right of the governor to nominate was questioned at this early day, but I have not perceived that it became a matter of discussion in the newspapers until several years afterwards.

From the result of the general election in April, 1790, I cannot perceive evidence of any material change in the political opinion of the electors. The election, no doubt, resulted in a nominal federal majority in both houses, but party lines were not then as distinctly marked as they are at present, and several of the members of assembly and senate, who were called federalists, were friendly to Gov. Clinton, and were unwilling to be governed in their official acts by party considerations. The election of Aaron Burr to the United States senate, in opposition to so distinguished a federalist as Gen. Schuyler, of which I shall speak more particularly hereafter, is a decisive proof of this position.

Ever since the organization of the United States government under the new constitution, the funding system proposed by Gen. Hamilton, and the creation of a national bank, had been a subject which excited much attention, and about which the public mind was greatly divided. The most objectionable part of General Hamilton's scheme was the assumption by the nation, of the debts of the respective states, and the chartering of a bank. To these measures the republicans of this state were generally opposed. But at the session of congress in New-York, du-

ring this summer, a majority was obtained in favor of the assumption. Both Gen. Schuyler and Mr. King voted for the measure in the senate; in the house of representatives the vote of New-York was equally divided,\* 3 to 3.

The New-York legislature met in the city of New-York, January 3, 1791, and Mr. John Watts was unanimously elected speaker of the assembly. A census had been taken in the year 1790, from which it appeared that the population of the state then amounted to three hundred and twenty-four thousand one hundred and twenty-seven, and that the increase was more than eighty-five thousand since 1786. This increase was mainly in the northern and western parts of the state. The governor in his speech therefore called the attention of the legislature to that subject, and suggested that a new apportionment of the representation in the legislature was required to be made, and a new division of the senatorial districts. Scattering settlements having been made westerly along the valley of the Mohawk river as far as the Oneida lake, and northerly along the shores of lake Champlain, the country bordering on those regions had been explored, and Gov. Clinton at that early period suggested that facilities ought to be afforded by clearing out the obstructions in the Mohawk river, and by cutting canals, to open a communication between lake Champlain and Hudson's river at the north, and Wood creek at the west. The answer of the two houses was a mere echo to the governor's speech.

This session seems to have been a very quiet and useful one, with a single exception. It will be seen hereafter, that this legislature invested the commissioners of the land office with too great discretionary powers relative to the disposition and sale of the public lands. The council of appointment chosen this year, consisted of Isaac

\* See Note M.

Rosevelt, Peter Schuyler, Thomas Tillotson and Alexander Webster.

Gen. Schuyler having, on casting lots, drawn the shortest term, in the United States senate, his seat became vacant on the 4th March, 1791; it therefore became necessary in the early part of this session to elect a senator. The general was a candidate for re-election, and Mr. Aaron Burr was his competitor. Col. Burr was nominated by both houses—in the assembly his majority was five, in the senate eight. At this time, the senators were chosen by concurrent resolution. In the assembly, after the vote between Schuyler and Burr had been taken, a motion was made to strike out the name of Burr, with a view to insert the name of Egbert Benson, but the effort was unsuccessful. It may appear singular that the majority in the senate was so large against Gen. Schuyler, as the majority in that body must have been nominally federal. But Schuyler, although he was unquestionably a man of high honor and integrity, possessing enlarged, liberal and patriotic views as regarded the great interests of the state, was an ardent and violent partizan, and was presumed to act under the influence of Gen. Hamilton, who was his son-in-law, and although he was a man of commanding appearance, yet his manners having been formed in camps and not in courts or among the people, were austere and aristocratic, and rendered him personally unpopular. Burr, on the contrary, was a man of very pleasing and fascinating address, and at that period of his life was considered one of the most persuasive and eloquent speakers of the age. In politics, he belonged to the medium party. He must have been considered as opposed to the ultras of both parties, and could not at any rate have been viewed as identified with the republican party, for we have seen him in 1789, acting as a member of a corresponding committee to promote the election of Judge Yates, against Mr.

Clinton. He was evidently opposed, both to Clinton and Hamilton. Indeed in his correspondence with Hamilton, which terminated in a duel fatal to the latter, several years afterwards, he avows with a frankness unusual to him, he always considered Clinton and Hamilton as his rivals. (2 Burr.) In fact the whole tenor of this gentleman's political life, impresses on my mind a conviction that personal motives rather than his opinions as to measures, had a controlling influence over his political conduct. From all these considerations, I infer that several of the *federalists* in the senate preferred him to Gen. Schuyler. Hence we find that although the senate at that time consisted of twenty-four members, only sixteen votes were given at the election between Burr and Schuyler, and twelve of these votes were given to Burr. Had the assembly nominated Judge Benson, is it not probable that the result in the senate would have been different?

After Mr. Burr was elected senator, his office of attorney-general was, by the council, declared vacant, and Morgan Lewis was appointed his successor, November 8, 1791. Mr. Lewis was connected with the Livingston family—a family which had great influence in the legislature. Might not this arrangement have been anticipated before the senatorial election, and have had some influence on its result? It is proper, however, to add that Philip Livingston, a federal senator from the southern district, remained at his post, and voted for Gen. Schuyler.

The legislature proceeded to apportion the representation according to the last census, and to make a new division of the senate districts. It appeared there were, at that time, nineteen thousand six hundred and twenty-six electors for senators in the state. This would give one senator to eight hundred and seventeen electors; and on this basis the ratio of representation was fixed. The

new act provided that the southern district should be composed of the counties of Suffolk, Queens, Kings, Richmond, New-York, and Westchester, and should be entitled to elect eight senators ; that the middle district should contain the counties of Dutchess, Ulster and Orange, and elect six senators; that the eastern district should be formed by the counties of Columbia, Rensselaer, (which had been recently created) Washington and Clinton, with the right to elect five senators, and that the western district should be comprised of the counties of Albany, Montgomery, Saratoga and Ontario, (the two latter counties had then been lately created) and should be represented by five senators. This act was passed February 7, 1791. That the subsequent narration may be better understood, I will here insert the names of the members of the senate in 1791.

From the southern district, Isaac Rosevelt, Philip Livingston, Samuel Micheau, Ezra L'Hommedieu, Samuel Jones, Durand Gelston, Philip Van Cortland, and Joshua Sands.

*Middle*, James Clinton, (brother of the governor,) Jacobus Swartwout, John Cantine, James Carpenter, Thomas Tillotson, and David Pye.

*Western*, Philip Schuyler, Stephen Van Rensselaer, Volkert P. Douw, Peter Schuyler, and Leonard Gansevoort.

*Eastern*, Peter Van Ness, John Williams, Edward Savage, Alexander Webster, and William Powers.

Subsequent to the passing of the act for a new division of the state into senatorial districts, the legislature erected out of the county of Montgomery three new counties, to wit, Herkimer, Otsego and Tioga. The act creating these counties was passed on the 17th day of February. The assembly was to consist of seventy-three members, and to be elected from the several counties in

the proportions following : New-York 7, Suffolk 4, Queens 3, Kings 1, Richmond 1, Dutchess 7, Westchester 5, Orange 5, Columbia 6, Rensselaer 5, Washington 4, Albany 7, Saratoga 4, Montgomery 5, Ontario 1, and three counties, Herkimer, Otsego and Tioga, each one.

JAMES KENT was this year a member of the assembly from the county of Dutchess. This was the first appearance in public life of that able writer and eminent and learned jurist.

In addition to the ordinary appointments, it became necessary for the governor and council to appoint officers for all the new counties which had recently been created by the legislature. An entire civil list was to be formed, and in doing this it would appear from examining the catalogue of appointments, that the governor made his selections with the view to the personal merits and fitness of the candidates, irrespective of the political party to which they happened to belong; a circumstance creditable to him, and honorable to the principle of action which seems to have governed the conduct of the political parties of that day. Thus, William Cooper was appointed first judge of Otsego county, Richard R. Smith sheriff, and Jacob Morris clerk; all of them open, zealous and decided political opponents of the governor. In other counties, the appointments appear to have been equally liberal, and to have been made without reference to the course the persons appointed might pursue at the great election which was to be held the next year. I observe that Jonas Platt, afterwards a justice of the supreme court and a distinguished politician, who had then lately established himself at Whitesborough, at that time in the bosom of the wild, uncultivated western forests, was this year appointed clerk of the county of Herkimer, which then included the county of Oneida and the territory which now composes the great northern counties of Oswego, Jef-



feron, &c. The result of the general election in April, 1791, would seem to indicate an increase of strength to the republican party, but so many local and personal considerations operated on the minds of the electors, that it is difficult at this time to form a judgment of the exact state of public sentiment, by the result of an election in any particular county. Thus Melancton Smith, one of the most zealous, able and deserving friends of Gov. Clinton was chosen one of the members from the city of New-York, although at that very time, the city was strongly federal, and elected Josiah Ogden Hoffman, and other ardent and efficient federalists as his colleagues.

The legislature met at New-York, on the 5th January, 1792, and again Mr. Watts was elected speaker of the assembly.

Among other matters communicated by the governor in his speech, at the opening of the session, to the legislature, he informed them that large and extensive sales had been made of the public lands, or as he termed them, "the waste and unappropriated lands," and he advised that the proceeds should be applied to the discharge of the state debts, and the surplus invested in such manner that the income arising therefrom should be applied annually to defray the ordinary expenses of the state.

The assembly this year chose David Pye, Pilip Van Cortland, Stephen Van Rensselaer, and William Powers members of the council of appointment.

The term of Gov. Clinton's office expired this year, and both political parties early displayed a most intense anxiety in relation to the result of the next general election. The federalists were for some time in doubt about the selection of their candidate, and had great difficulty in fixing upon one that was agreeable to them, who would consent to run. Judge Yates positively declined another contest. Mr. Van Rensselaer, the patroon, was applied

to, but refused to be a candidate. Chancellor Livingston, it seems, was also spoken of, and Chief Justice Jay was much desired, but it was very doubtful considering the exalted station he held under the general government, and his known aversion to personal collision and party warfare whether, under any circumstances, he would permit his name to be used. Mr. Burr was spoken of by those who called themselves the moderate men of both parties. Indeed there would seem to have been a disposition among a portion of the republican party to make him the regular republican candidate. In an anonymous letter, dated at New-York, February 13, and published in the Albany Gazette, probably written by some federal member of the legislature, it is stated that "Judge Yates refuses to be a candidate for governor; that Col. Burr has come forward, and now openly declares himself a candidate. Judge Yates' friends, southern and northern, are against Col. Burr, and we are uncertain who our candidates will be. Stephen Van Rensselaer and John Jay are spoken of. S. Van Rensselaer has been waited on, but has declined. He will be again called on. The chancellor and Jay have also been spoken to, but they have declined." But it seems that Mr. Jay, probably by the persuasion of General Hamilton, Schuyler and other friends was induced to change his determination; for on the evening of the 13th of February, a meeting was held in New-York, at which Peter Van Ness, a senator from the eastern district, presided, and at which John Jay was nominated for governor, and Stephen Van Rensselaer for lieutenant governor. Judge Yates attended this meeting, and repeated his determination not to be a candidate, but expressed a firm resolution to support the federal nominee, and stated that he had not declined with a view, as some had asserted, to favor Col. Burr's success.

At a more general meeting, held a few days afterwards of which Gen. Ten Broeck was chairman, and Gen. North secretary, the nomination of Mr. Jay and Mr. Van Rensselaer was reiterated and confirmed, and the most efficient means were put in requisition to insure their election. This was a strong ticket, probably the strongest which could have been formed by the federal party in the state.

On the 15th February, a republican meeting was held in New-York, composed as was alledged, of gentlemen from various parts of the state, of which Jonathan Lawrence was chairman, at which George Clinton and Pierre Van Cortland were nominated for a re-election. Even after this public annunciation of the will of the republican party, it would seem that the support of Col. Burr was still urged by his friends, for I find in the Albany Gazette of the 27th of February, an able and well written communication over the signature of a *Plain Farmer*, in which Col. Burr is recommended for governor to the moderate men of both parties, on account of his superior talents, and because "*he did not belong to either party.*" If however, an attempt was really made by Col. Burr and his friends to get up a third party, of which he was to be the head, it was entirely unsuccessful, for public meetings were forthwith held in almost every county in the state both of the federal and republican parties, at which the nominations of Mr. Clinton and Mr. Jay were unanimously and with apparent cordiality concurred in by the parties to which they respectively belonged. After all these demonstrations of the feelings and wishes of the two parties, on the 15th of March, Col. Burr caused it to be announced in the newspapers that he was not a candidate.

While these movements were being made among the people, a violent attack was made on governor Clinton in

the legislature on account of the agency he had had in the sale of the public lands, being the same sale to which he alluded in his speech at the opening of the session.

When this state became independent of Great Britain, it held more than seven millions of acres of wild uncultivated and unappropriated lands. Sundry laws had been passed during and subsequent to the revolutionary war, providing for the sale and settlement of those lands. But before the year 1790, few sales, considering the quantity of land in market, had been effected. The state being in want of funds, and all well wishers of its growth and prosperity being desirous of encouraging adventurers to make lodgments in the vast wilds of the west, the legislature at their session in 1791, in order to quicken the sales and hasten settlements, passed a law authorizing the commissioners of the land office to dispose of any of the waste and unappropriated lands in this state, *in such parcels and on such terms and in such manner as they should judge most conducive to the interest of the public.* The reader will, at one glance, perceive the immensity of the power conferred on the commissioners. In the language of a report not long since made by commissioners to the legislature on another subject, it was "too great a power to be entrusted to mortal hands." And yet it seems to have been done by the consent of both political parties. The commissioners of the land office consisted of the governor, secretary of state, attorney general, treasurer, and auditor. Mr. J. A. Scott was secretary of state, Aaron Burr attorney general, Girard Bancker treasurer, and Peter T. Curtenius was auditor. Under the authority of the act to which I have referred, these gentlemen sold, during the year 1791, five millions five hundred and forty-two thousand one hundred and seventy-three acres of land, for the sum of one million thirty thousand, four hundred and thirty-three dollars. Among the sales was

one to Alexander McComb, of the enormous quantity of three million six hundred and thirty-five thousand two hundred acres. The price to him was eight pence per acre, payable in five annual instalments, without interest, subject to a discount of six per cent, on payment in advance, which reduced still lower the actual price. (1 *Davis' Memoirs of Burr*, 326.) Large parcels of land were also sold to other individuals, among whom were the Messrs. Rosevelts, James Caldwell, McGregor, &c., but these sales were made at a higher rate. Some a little exceeded three shillings per acre, some for two shillings and six pence, and some for one shilling.

When the report was under consideration in the assembly, Col. Talbot, a member from Montgomery county, offered a series of resolutions severely condemnatory of the conduct of the commissioners.

It was alledged that the lands were sold in too large tracts; that they should have been sold in parcels not exceeding twenty-five thousand acres each; that if they had been sold in that way, the avails of the sales would have been much greater; and that it was detrimental to the advance of the state in aggregate wealth, and inconsistent with our republican institutions to encourage a monopoly of land in the hands of a few individuals. Again, it was urged as a suspicious circumstance, that lands were sold to McComb for eight pence per acre, whereas five hundred thousand acres were sold by the same commissioners and about the same time, to John and Nicholas Rosevelt for three shillings and a penny per acre. In the heat of debate upon Mr. Talbot's resolutions, it was broadly insinuated that Gov. Clinton and his immediate friends were personally, but secretly interested in these sales.\* The answer was a total denial of all cor-

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\* As the election for governor was to take place in April following, it is very probable that this charge was made partly with a view to prevent the re-election

rupt motives on the part of the commissioners, and in fact, it does not appear that any such were attempted to be proved; and an allegation that the intention of the legislature was, that the lands should be sold at any rate. It was further alledged, and boldly asserted, that no higher offers could be obtained, than those which were finally accepted by the commissioners. It might have been, and probably was urged, that the purchasers of these lands would become active and powerful agents to procure emigrants from other states and from abroad, to settle those wild and uncultivated forests, and thus a rapid increase would be made to the population, wealth, and resources of the state; and events have proved that such has been the consequence; but still I cannot help thinking, that the commissioners acted not only injudiciously, but palpably wrong, in selling such large tracts at one time to individuals. The wants of the state were surely not so pressing but that if the commissioners had confined their sales to from one hundred to ten thousand acres to each purchaser, enough funds might have been raised to have met all the public exigencies. Land agents on the part of the state, might have been created, whose sole business should have been to make sales of lands to actual settlers; and whose gains should have been in proportion to the quantity of land they should have sold. In some such way it appears to me the wants of the state might have been supplied, the settlement and cultivation of the wild lands rapidly made, and a fund preserved for the benefit of the state, of incalculable amount. Mr. Davis, in his *Memoirs of the Life of Col. Burr*, says, (1 vol. p. 329)

of Mr. Clinton; and there can be little doubt that it did have a considerable effect unfavorable to him.

The lands purchased by McComb, were those in which it was alledged the governor was interested. But in May, 1793, *after the election*, Mr. McComb made oath before Richard Varick, then mayor of New-York, (a federalist,) that Gov. Clinton was neither directly nor indirectly interested in the lands purchased by him. I have seen and read McComb's affidavit.

"these resolutions (Col. Talbot's,) exempted Col. Burr from any participation in the malconduct complained of, inasmuch as the minutes of the board proved that he was not present at the meetings (*being absent on official duty as Attorney General,*) when these contracts, so ruinous as they alledged, to the interest of the state, were made." The resolutions do not exempt Col. Burr, but it is true that they refer only to "such of the commissioners as had an agency in the sales." But if Col. Burr did not choose to appear personally at the board, can it be possible that these enormous sales and speculations were negotiating probably for months and months in the city where Col. Burr resided, and principally effected with business men, with some of whom he no doubt was in the habit of daily intercourse, by a board of which he constituted one member of the five of which it was composed, without knowing any thing of the matter? Is this consistent with the idea we form of the vigilant, scrutinizing Col. Burr, who his friends in those days alledged, if he did not know every thing in "Heaven and earth," at least knew every thing material that was passing in the city of New-York? But Mr. Davis says, "he was absent on official business." This Mr. D. does not affirm from his own knowledge; and as he does not, it is fair to inquire where Col. Burr was, and what was that official business which kept him for months out of the city of New-York? In page 288, Mr. Davis assigns as a reason why Mr. Burr accepted the office of Attorney General, "that the seat of government was in New-York, and Mr. Burr's official business seldom required his absence from home." On the whole, I think it preposterous to suppose that Col. Burr was not consulted, or that he did not in fact consent to these sales. If he did not appear personally at the board at the time when any question was formally decided, it was in accordance

with that extreme caution and wariness which always governed his public conduct.

After a very long and acrimonious discussion of Col. Talbot's resolutions, they were finally rejected, and on the 10th of April, Mr. Melancton Smith, as pure a man as ever lived, introduced a resolution approving of the conduct of the commissioners, which was adopted in the assembly by a vote of thirty-five to twenty.



## CHAPTER III.

FROM THE GENERAL STATE ELECTION IN 1792, TO MAY 1, 1796.

THE election of governor in April, 1792, was conducted with much zeal, and called out, in every county in the state, the most rancorous criminations and recriminations. The state canvassers who met on the second Tuesday in June, 1792, declared George Clinton duly elected governor by a majority of one hundred and eight votes. But the close of the election in this instance, proved to be the beginning of evils, growing out of party collisions.

By the laws of this state, from the organization of its government down to and subsequent to the period of which I am now writing, the votes for governor, lieutenant governor, and senators, were canvassed by a joint committee of the two houses of the legislature. This committee consisted of twelve persons, six of whom were chosen by each house. The ballots taken in each town, were by law required to be delivered to the sheriffs of the respective counties, whose duty it was to put them into a box and transmit them to the secretary of state, who was required to deliver the boxes containing the ballots to the canvassing committee, who were to count them, and declare what candidates were elected. The decision of the canvassers was declared by the statute to be final and conclusive. By the constitution, article 12, in connexion with article 9, the senate are constituted judges of their own members. The colonial assemblies had always exercised the right of judging whether their members were duly elected, a right which seems to me inherent in all representative bodies. It, therefore, seems to follow, that when the legislature enacted a law that the decision of the

canvassers was conclusive as respected the election of *sensors*, they exceeded their powers; but as the constitution had not designated the persons who were to decide on the evidence of the election of a governor, the legislature had of course the right, and it was their duty to provide by law for their appointment. These remarks will be found to have a bearing on the controversy, the history of which I am about to relate.

The acting canvassers this year, were David Gelston, Thomas Tillotson, Melancton Smith, Daniel Graham, P. Van Cortland Jr., David McCarty, Jonathan N. Havens, Samuel Jones, Isaac Rosevelt, Leonard Ganesvoort, and Joshua Sands. These gentlemen differed in opinion as to the right of canvassing and allowing the votes given in the counties of Otsego, Clinton, and Tioga, the seven first named being for rejecting, and Messrs. Jones, Rosevelt, Ganesvoort, and Sands, being for allowing them. The question was vitally important, because it was generally admitted that the county of Otsego had given about four hundred majority for Mr. Jay, and that Clinton and Tioga would not materially diminish that majority. If, therefore, the votes from these counties were counted and allowed, Mr. Jay was elected; if rejected, Mr. Clinton was the successful candidate.

After considerable discussion, the canvassers agreed to request the opinion of Rufus King and Aaron Burr, the two state senators, and both of them eminent lawyers. The facts in the case are so clearly and distinctly stated by the committee in their communication to Messrs. King and Burr, that I cannot better present them to the reader than by transcribing that statement.

The canvassers commence by stating the facts in relation to the Otsego votes. They say that "by the twenty-sixth section of the constitution of the state of New-York, it is ordained that sheriffs and coroners be annually appointed,

and that no person shall be capable of holding either of the said offices for more than four years successively, nor the sheriff of holding any other office at the same time. By the ninth section of the act for regulating elections, it is enacted that one of the inspectors shall deliver the ballots and poll-lists, sealed up, to the sheriff of the county; and, by the tenth section of the said act, it is further enacted, that each and every sheriff of the respective counties in this state, shall, upon receiving the said enclosures, directed to be delivered to him as aforesaid, without opening or inspecting the same, or any or either of them, put the said enclosures, and every one of them, into one box, which shall be well closed and sealed by him, under his hand and seal, with the name of his county written on the box, and be delivered by him into the office of the secretary of this state, where the same shall be safely kept by the secretary or his deputy. By the eleventh section of the said act, all questions arising on the canvass and estimate of the votes, or on any of the proceedings therein, shall be determined by a majority of the members of the joint committee attending; and their judgment shall be final, and the oath of the canvassers requires them faithfully, honestly, and impartially to canvass and estimate the votes contained in the boxes delivered into the office of the secretary of this state by the sheriffs of the several counties.

“On the 17th of February, 1791, Richard R. Smith was appointed sheriff of the county of Otsego, and his commission gives him the custody of that county until the 18th of February, 1792. On the 13th of January, 1792, he writes a letter to the council of appointment, informing them that, as the year for which he was appointed had nearly elapsed, he should decline a re-appointment.

“On the 30th of March, 1792, the council of appointment appointed Benjamin Gilbert to the office of sheriff of

the said county, with a commission, in the usual form, to keep the county until the 17th of February next. His commission was delivered to Stephen Van Rensselaer, Esq. on the 13th of April last, to be forwarded by him to the said Benjamin Gilbert. By the affidavit of the said Benjamin Gilbert, herewith delivered, it appears that he qualified into the office of sheriff on the 11th day of May, 1792. On the first Tuesday in April, 1792, Richard R. Smith was elected supervisor of the town of Otsego, in said county, and on the first Tuesday in May, took his seat at the board of supervisors, and assisted in the appointment of loan officers for the county of Otsego. By the affidavit of Richard R. Smith, herewith delivered, it appears that the ballots taken in the county of Otsego were delivered to him as sheriff, and by him enclosed in a sufficient box, on or about the 3d of May, which box he then delivered into the hands of Leonard Goes, a person specially deputed by him for the purpose of delivering the said box into the hands of the secretary of this state, which was accordingly done, as appears by information from the secretary.

“A small bundle of papers, enclosed and sealed, was delivered to the secretary with the box, on which is written, ‘The votes of the town of Cherry Valley, in the county of Otsego. Richard R. Smith, sheriff.’ Several affidavits, herewith delivered, state certain facts respecting this separate bundle, said to be the votes of Cherry Valley.

“On this case arise the following questions:

“1. Was Richard R. Smith the sheriff of the county of Otsego when he received and forwarded the ballots by his special deputy?

“2. If he was not sheriff, can the votes sent by him be legally canvassed?

"3. Can the joint committee canvass the votes when sent to them in two parcels, the one contained in a box, and the other contained in a paper, or separate bundle? Or,

"4. Ought they to canvass those sealed in the box, and reject the others?

"TIOGA.—It appears that the sheriff of Tioga delivered the box containing the ballots to B. Hovey, his special deputy, who set out, was taken sick on his journey, and delivered the box to H. Thompson, his clerk, who delivered it into the secretary's office.

"Question. Ought the votes of Tioga to be canvassed?

"CLINTON.—It appears that the sheriff of Clinton delivered the box containing the ballots to Theodorus Platt, Esq., who had no deputation, but who delivered them into the secretary's office, as appears by his affidavit.

"Question. Ought the votes of Clinton to be canvassed?"

Upon this statement of the case, Mr. King's opinion was that inasmuch as the term of four years had not expired from the time of Smith's appointment, and his successor had not taken possession of the office, he was legally sheriff of the county of Otsego at the time the votes were forwarded.

2. If he was not legally sheriff, he was sheriff in fact, and though such acts of an officer *de facto* as are voluntarily and exclusively beneficial to himself are void, yet such acts as tend to the public utility are valid.

3. The votes from Cherry Valley, which were put into the box ought to be canvassed but not those attached to the outside of it.

4. The votes from Clinton ought to be canvassed, because a sheriff may deputize by parol.

5. The votes of Tioga ought to be canvassed, although it is doubtful whether a deputy of a sheriff can make a deputy, yet the election law ought to be construed liberally, and in furtherance of the right of suffrage.

Col. Burr's opinion was,

1. That the Otsego votes ought to be rejected. Because, the right of a sheriff to hold over, was in England, created by statute, which was evidence that at common law the right did not exist. In New-York, there is no statute authorizing the sheriff to exercise the functions of his office after his term expires; therefore the common law is the law of the state, and by it the sheriff, when his term expires, ceases officially to exist.

2. The facts show that Smith was not sheriff *de facto*.

With respect to the ballots of Clinton county, Mr. Burr said that verbal and written deputations by a sheriff to perform a single ministerial act, are of equal validity. I therefore infer that he was of opinion that the votes from this county ought to be allowed.

As to the Tioga votes, Mr. B. declared it as his opinion, that a deputy sheriff could not authorize a special deputy to perform so important a trust as that of taking charge of the ballots of a county, and he therefore thought that the votes from Tioga could not be adjudged to have been delivered by *the sheriff* to the secretary. The opinions of Mr. King and Mr. Burr, are given in extenso by Mr. Davis, in the first volume of his Memoirs of Col. Burr, page 336, to which the reader is referred.

A majority of the canvassers, namely, Messrs. Gellston Tillotson, Smith, Graham, Van Cortland, M'Carty and Havens finally decided on rejecting the votes from the three counties. Against this decision Messrs. Jones, Rosevelt and Gansevoort protested jointly, and Mr. Sands separately, and caused their protest to be entered on the minutes of the proceedings of the committee.

To my mind, the reasons assigned by Mr. King and by the minority of the committee in their protest, are strong and convincing. I think Richard R. Smith, if not *de jure* was *de facto* sheriff, and that his acts as such in this case were valid. It would be preposterous to assume that the law of this state, as it then existed, could have been fairly construed, that whenever from insanity, sudden death, or any other cause, the new sheriff, after he received his commission, did not qualify himself to discharge the duties of his office, by the very day the term of office of the old sheriff expired, that in such case the county was without a sheriff. That no such construction had been recognized, is proved by the fact that the settled usage and practice had long been that the old sheriff held until the new one actually took possession of the office. I also think that the verbal deputation by the sheriff of Clinton to Mr. Platt was competent, and that the deputy sheriff of Tioga had a right to depute a person to carry the votes of that county to the secretary of state, and in this position I am sustained by the opinion of the New-York supreme court.\* But I have another reason for believing that the canvassers ought not to have rejected these votes. The right of suffrage is a sacred and invaluable right which belongs to the elector, and of which he cannot be divested. When he has deposited his vote in the ballot box, he has exercised that right. And he ought not and cannot be deprived of the effect of it, either by the non-feasance or misfeasance of the agent to whom the law commits the custody and care of his ballot. If it be in existence at the time of the canvass, whatever may have been the negligence or misconduct of the agent

\* In the case of *Hunt vs. Burrill*, 5 John. R. 137, the court expressly decide that a deputy sheriff may depute another to do a particular act, and the same doctrine was held in England so early as the time of Lord Holt. 1 Salkeld 95, *Parker vs. Kett*.

who was charged with the keeping of it, the persons who adjudicate upon the election of the candidate are bound to allow it. If it be lost or destroyed, and that vote would have changed the result, in such case a new election ought to be directed. The United States house of representatives have long since established the rule that the intention of the voter, when it can be ascertained, shall be fully carried into effect. It was in accordance with this principle, that they decided the case of Isaac Williams, Jr., and John M. Bowers in the year 1813.

But what could Mr. Clinton do? He was declared governor by the only tribunal which had a right to speak on the subject. If he declined acting, the state for the time being would be without an executive department, elected by the freeholders; for Mr. Van Cortland was in the same position with him as respected the result of the election. It seems to me he was right in acting upon the assumption, that the decision of the canvassers was correct. Still I cannot think he ought to be exonerated from all blame. He must have been apprised of the state of the case, before the canvassers decided—as time was taken by them to consult counsel and obtain their written opinions. Ought not Gov. Clinton to have volunteered his advice to them? And if he had advised them to allow the disputed votes, is it probable that a majority of the committee being his personal and political friends, would have rejected them? The excitement produced by a heated and sharply contested election, in the result of which he was personally concerned, must have biassed and clouded the otherwise clear and pure mind of the governor. But how easy is it for us to persuade ourselves that what we ardently wish should be done, it is right that it should be done? How hard is it for the most pure minded man to adjudicate upon a question against his own wishes and interest? Besides this, the governor would have had to contend, and



did have to contend, not only against his own interest and wishes, but against the persuasions and wishes of all those political friends who had steadily and zealously supported him, and whose political prospects greatly depended on the decision of the canvassers. Considering therefore, the strength of party excitement, and the weakness of human nature, it is not surprising that Mr. Clinton should have desired that the canvassing committee should decide the election in his favor.

The senators elected this year from the southern district, were Henry Cruger, Joshua Sands, and Selah Strong, all federalists; from the middle, Joseph Hasbrouck, republican; from the western, John Frey, in lieu of Peter Schuyler deceased, federal; and from the eastern, Robert Woodworth and John Livingston, republican.

Upon the annunciation of the decision of the canvassers, great excitement was manifested on the part of the federalists in every county in the state. Public meetings were held, and the governor was denounced as an usurper, and the canvassing committee as corrupt. Some of the public meetings protested against the legality of the acts of Mr. Clinton as governor; and the state seemed menaced with the ascendancy of anarchy and utter confusion. In this state of the public mind, it is consoling as well as gratifying to refer to the conduct of John Jay. When the canvassers decided, he was holding a circuit court at Bennington in Vermont. On his return, upon entering the borders of this state, his political friends ran together in crowds to meet him. At Lansingburgh, Albany and Hudson, he was publicly addressed; and when he arrived within eight miles of New-York, he was met by a body of citizens who escorted him to his house in the city. Some of their addresses to him on this occasion, were highly inflammatory and very severe upon the conduct, character and motives of the friends of Gov. Clinton. At

New-York, immediately after his arrival, a public meeting of "the friends of liberty" was held, "and a committee was appointed to congratulate him on his return, and to express to him the sentiments of the inhabitants on the late attempt which had been made '*in contempt of the sacred voice of the people, in defiance of the constitution, and in violation of the uniform practice and settled principles of law,*' to deprive him of the high office to which he had been elected." (1 Jay, 291.) Amidst these exciting scenes, Mr. Jay's deportment was calm and dignified; no bitter or heated expressions escaped him, and his replies to public addresses were modest, mild and conciliatory, tending to quiet the heated feelings of his friends, and to produce not only a respect and obedience to the laws, but harmony and good feeling in society. I cannot on this occasion, forbear transcribing a sentence from his answer to the address of his New-York friends, not only because it does great honor to this pure and upright man, but because it is a sentiment which ought to be cherished by every friend to social happiness and the stability of our civil institutions. "Every consideration," says Chief Justice Jay, "of propriety, forbids that difference in opinion respecting candidates, should suspend or interrupt that natural good humor which harmonizes society and softens the asperities incident to human life and human affairs."

Governor Clinton took the oath of office on the first day of July; and on the 19th of that month, partook of a public dinner tendered to him by his political friends in New-York. The venerable Samuel Osgood, then late postmaster general, as chairman of a committee of the citizens, delivered an address to the governor alluding to, and animadverting with some severity on, the conduct of his opponents; to which he replied in a conciliatory but dignified manner. Some of the regular toasts drank at this dinner, may afford an index to the political views of the republi-

can party in New-York, at that time. The company toasted,

“The Constitution of the United States.”

“General Washington.”

“Thomas Jefferson.”

“The French Republic.”

No national officer or member of the United States government was named at this meeting, but Gen. Washington and Mr. Jefferson.

It may be proper here to remark, that when the French revolution first commenced, and indeed after it had progressed for a considerable time, there was in America but one feeling and one view in relation to it. All rejoiced that any people, and especially a people to whose aid the United States, in their struggle for independence, were deeply indebted, had thrown off the shackles of tyranny and resolved to be free; but at the period of which I am now writing, many of the American politicians began to disapprove of the outrages committed by the Jacobins of France, and to be seriously apprehensive that, considering the good feeling so universally entertained in America towards the French nation, that the intrigues of the latter, and the honest sympathy of the former, might involve the American republic in an European war. These apprehensions carried many intelligent men so far that they began to denounce the original revolution in France. Is there not reason to suspect that some of the latter class of politicians were in part influenced by their mercantile and other friends in Great Britain? The republican party, on the other hand, advocated with great warmth, the French revolution, and hailed its authors as friends and brothers. It is the tendency of political parties to magnify their differences on all theoretical questions, and apparently to diverge wider and wider from each other. The federalists accused the republicans of an undue attachment to France;

and affected to hold them responsible for all the wild theories both in politics and religion, which at times appeared and disappeared in France. While the republicans charged the federalists with being hostile to the French revolution, unreasonably favorable to the British nation, and in fact, unfriendly not only to liberty and freedom in France, but in this country. At the time the dinner was given to the governor, these feelings were just beginning to take root in the minds of the leaders of the two parties. I regret to be compelled to add, that they sprung up and continued to grow until they eventually furnished a distinguishing characteristic of the respective parties.

It is much to be lamented that political parties should ever be based on a difference of opinion about the merits or demerits of a foreign nation. Political controversies of this description tend to degrade us in the eyes of foreigners, to create the most bitter animosities at home, and to extinguish that patriotic ardor so essential to the independence, and I may add, the existence of a free people.

I have before stated the reasons why the appointment of a fourth judge of the supreme court was deemed necessary, and to those reasons may now be added the late creation by the legislature of several new counties. The council in view of all the circumstances, determined to appoint a fourth judge, and by the casting vote of the governor, that office was in the first instance offered to Aaron Burr. He hesitated about accepting the appointment, but inasmuch as the acceptance of that office would render it necessary for him to resign his seat in the senate of the United States, he finally concluded to decline receiving the office of judge. After Col. Burr had declined, Morgan Lewis, the attorney general, was appointed and Nathaniel Lawrence was created attorney general in the place of Mr. Lewis. These appointments were

all made by the votes of Messrs. Pye and Van Cortland, and the casting vote of the governor.

On the sixth of November, the legislature met in New-York, and Mr. Watts was again without opposition, elected speaker. The governor's speech was very concise. He stated that the reason why the session had been appointed so early, was, in order that a choice of electors for president and vice-president of the United States, might be made in due time; and he urged their immediate attention to that subject, and suggested the propriety of an early despatch of other public business, so as to render the session as short as possible. It may be that this suggestion was made in anticipation of the tedious investigation and interminable acrimonious disputes in which, notwithstanding that suggestion, the two houses soon afterwards became engaged, in relation to the conduct of the canvassing committee. In the senate, the canvassing question was immediately raised, by an objection made by the federalists in that body, to the right of John Livingston, whom the canvassers had declared duly elected a senator from the eastern district. That district included the county of Clinton. Thomas Jenkins was the opposing candidate to Mr. Livingston; and if all the votes in Clinton county had been given for Mr. Thos. Jenkins, he would have been elected. As there was a legal possibility that all the votes were so given, it was urged that if those votes were improperly rejected, Mr. Livingston was not entitled to his seat, and that a new election ought to be directed. The federalists, therefore, contended that it was the duty of the senate to review the decision of the canvassers. On the other hand, it was urged that the decision of the canvassers was final and conclusive, even on the senate.

This question was decided in favor of the right of Mr. Livingston to his seat, by the following vote:—In the affirmative, Williams, Swartwout, Van Cortland, Gels-

ton, Schenck, Woodworth, Hasbrouck, Webster, Pye, Tillotson, Cantine, Carpenter. Negative, Frey, Schuyler, Van Rensselaer, Sands, P. Ganesvoort, Jones, Duow, Cruger, Strong, Powers. For the affirmative, 12—negative, 10. This vote shows the strength of the parties in the senate, which it will be perceived, was unusually full. After Mr. J. Livingston had taken his seat, there was a republican majority of two. Mr. Williams of Washington county, seems to have been the most active on the democratic side; and Mr. Jones, who it will be perceived, had changed from being a zealous anti-federalist, to an equally zealous federalist, was the most efficient member in the opposition. He with several other senators, caused a protest to be entered on the journals, in which they insist with great force, that the senate are by a right, secured by the constitution, of which they could not be deprived by any law passed by the legislature, the judges of their own members, and whether they were duly elected.\*

\* This able lawyer and useful legislator, it is said, was a little inclined to what is called trimming in politics. A mariner, if he has sea-room enough, will sail with great ease, provided he will shift his sails every time the wind changes, so that his vessel may be constantly running before the wind; and therefore in an elective government, the politician who tacks and trims his sails on all occasions so as to catch the popular gale, is very appropriately called a trimmer. As Mr. Jones was generally found acting with the majority of the southern district, it is not surprising that he acquired something of the character of a time server. Though he by no means deserved it, for on all questions of principle, he was decided, firm, and unyielding. But he was a kind-hearted, social, companionable man; and not only devised, but undoubtedly did much to advance the real prosperity of the community. There is so much frankness and good nature evinced by the following anecdote related of him by the late Chief Justice Spencer, that I cannot refrain from inserting it. While Judge Spencer was a state senator with Mr. Jones, he said to him one day in a jocular manner, "how is this, Mr. Jones, the majority in the southern district frequently changes; at one time it is federal, then it is republican; but whether the one or the other party have the majority, you always get your election. Pray acquaint me with the means you use, which secures you such constant success?" "Why, Spencer," said Jones, (his pronunciation was broad,) "to tell you the truth, *when my troops won't follow me, I follow them.*" The fact was, Mr. Jones while a member of the convention at Poughkeepsie which adopted the constitution, became in principle, separated from Gov. Clinton, he being in favor, and the governor being opposed to that instrument; but Mr. J. continued to be ranked among the supporters of Clinton, until the election in April 1792, and the contest in relation to the canvassing committee.

On the 13th of November, about eighty men, calling themselves deputies, from various parts of the state, appeared in New-York "to solicit," as they alledged, "a legislative remedy for the late outrage said to have been committed on the right of suffrage by a majority of the canvassing committee." They were introduced to the bar of the assembly with great formality and solemnity by Mr. J. O. Hoffman, who presented their memorial. It was referred to a committee of the whole house; and ten days afterwards, the assembly went into committee on that subject. A great number of witnesses were sworn, and their depositions are entered at length on the journals. Mr. Hoffman and Mr. James Kent were the principal managers on the part of the memorialists. It soon appeared very evident that there was a decided majority opposed to any legislative action on the subject; but the investigation was pursued with great eagerness on the part of the federalists, probably in order to keep up and increase the popular excitement against the governor and his political friends. The disputes about the formality of the proceedings and the proper questions to be put to witnesses, together with the subject matter of the complaint, seemed to furnish never ending topics of discussion.

On the other hand, the friends of Gov. Clinton, introduced a memorial against William Cooper, first judge of Otsego county, setting forth facts on which the memorialists alledged that an impeachment might be founded and prosecuted by the house against him. In support of the charges, a vast number of witnesses were sworn for and against Judge Cooper. The depositions of these witnesses, so far as I have examined them, do not go to prove any palpable misconduct in Mr. Cooper in the discharge of his duty as a judge, or any illegal or corrupt acts done under color of his office; but they certainly

do show gross misconduct in him as a citizen, during the canvass in Otsego, at the election between Jay and Clinton. It was deposed that he encouraged illegal voting in favor of Mr. Jay; that he knowingly had caused men to vote who were not freeholders; that he threatened voters with suits who expressed a wish to vote for Mr. Clinton, and that he menaced a Mr. Cannon, who came to the polls to challenge illegal voters, that if he challenged any one, he (the judge,) would forthwith commit him to jail. It must, however, very soon have been evident that nothing could be proved against Judge Cooper, on which an impeachment could be founded. Still the investigation was pursued, and indeed was not disposed of during that long session, which continued through the winter, and I believe ran into the spring of 1793. For my part, I regard this legislature as spending the greater part of several months for the sole purpose of playing a political game. The federalists had instituted an investigation into the conduct of the canvassing committee; not with a view of inducing any legislative action, (for I do not believe that such men as James Kent and many other federal members would, if they had had the power, have ventured at that time, by legislative enactments, to have declared the election of Gov. Clinton, void,) but for the purpose of rendering the governor odious, in consequence of the rejection of the Otsego votes. As a sort of an offset or counterbalance, I suppose the democratic party got up the proceedings against judge Cooper with a view to turn the attention of the public from the proceedings of the canvassers, to the improper conduct of the leader of the Jay party in Otsego, and the illegal votes which were there given for Mr. Jay. The assembly finally decided in favor of the proceedings of the majority of the canvassers.



The Presidential electors chosen at this session were John Woodhull, Edward Savage, Johanus Brown, William Floyd, Abraham Ten Eyck, David Van Ness, Samuel Clark, Abraham Yates, Jr., Volkert Veeder, Samuel Ward and Samuel Osgood, all I believe republicans. They were nominated by ballot in each house, and the successful candidates were nominated on the first ballot. This is a very decisive proof that there was a decided republican majority in both houses.

The election in April, 1793, resulted in a triumphant federal majority—the southern, eastern and western districts returned federal senators. From the southern district Ezra L’Hommedieu and Matthew Clarkson were chosen, in the eastern district; Zina Hitchcock was elected by about three hundred majority over Edward Savage, and in the western, Jacobus Van Schoonhoven and Michael Myers were elected by more than sixteen hundred majority. It was in the middle district only, where the republican senatorial ticket succeeded by the election of John Cantine and Reuben Hopkins.

During the summer of 1793, Mr. Genet, who had lately arrived in the United States in quality of minister of the French Republic, visited New-York. He was received by the republicans of that city with the most cordial greetings. A committee was appointed, of which James Nicholson was chairman, who in behalf of the republicans of New-York, made an address to him expressive of great sympathy for the French people, and highly complimentary to the minister. The federalists of New-York thereupon held a meeting and adopted and published spirited resolutions in support of the neutral attitude assumed by the United States government, as respected the belligerent nations of Europe.

The legislature met at Albany on the 7th of January, 1794. JAS. WATSON of New-York was chosen speaker.

The governor in his address to the two houses, made some general remarks in relation to the war in Europe. He expressed a wish for the preservation of peace, but complained that the British had not surrendered the western posts, according to the stipulation contained in the treaty of 1783; and he animadverted with some severity on the delay of Great Britain in the performance of that part of the treaty.

At that time our criminal code was much more sanguinary than at present. Several felonies besides that of murder, by the laws then existing, were punished with death. The governor recommended a revision and amelioration of the criminal code. He urged that the *certainly* rather than the *severity* of punishment was the best and surest means of preventing crime, and he closed his address with recommending union and harmony, and a speedy despatch of the public business. I cannot refrain from remarking, that the speeches of Gov. Clinton were all short, an example which it were to be wished his successors had followed. Gov. Clinton's speech on this occasion will be found excellent, both in manner and matter.

✓ In a few minutes after the governor and senate withdrew from the assembly chamber, and as soon as the speaker resumed the chair, Mr. Josiah Ogden Hoffman of New-York, moved that the house should forthwith proceed to the choice of a council of appointment. He delivered a most violent philippic against the existing council, and urged that they ought to be immediately arrested in their nefarious course. He was supported by Mr. AMBROSE SPENCER, who that session, was a member of the assembly, and several other federal members. The motion was opposed by Mr. Smith of Suffolk, and Mr. Comstock of Saratoga, as unusual and unprecedented; and it was suggested that by the constitution,

the members of the council had a right to hold their offices for one year; that the present council had not been in office a year, and should another council be that evening chosen, the present council would have a right to hold their offices and discharge the functions appertaining to the council of appointment until a year from the time of their election had expired. They finally moved that the further consideration of the motion should be postponed until the next morning.

The postponement was resisted by Mr. Hoffman. He alleged that the appointment of a fifth judge of the supreme court had become necessary, that he had reason to believe that if that officer should be appointed by the present council, a very unsuitable man would be selected—and he apprehended that unless the house immediately elected a new council, the mischief would be consummated that very evening.

The existing council, it will be remembered, consisted of Messrs. Gelston, Hasbrouck and Woodworth, republican, and Mr. Frey, a federalist. The federal party desired the appointment of Egbert Benson to the office of supreme court judge, but the republicans were generally in favor of Peter W. Yates, and Mr. H. knew at any rate, that the majority of the council never would consent to the appointment of Mr. Benson. It is said Gov. Clinton doubted the propriety of adding another judge to the bench of the supreme court, and that the republican part of the council were divided in their opinion as to the propriety of appointing Mr. Yates. I find an entry in the books kept by the council, at a meeting held some time before, from which it appears, that the subject of appointing a fifth judge was then agitated; that the council were divided, two of the them expressing an opinion that an additional judge was unnecessary, and that the other held an adverse

opinion, but the two last mentioned councillors could not agree on the person who ought to be appointed. It does not appear that the governor expressed any opinion; but I am told by a gentleman\* now living, of great respectability, who is a son of one of the members of the council, that the governor was indisposed to the appointment of Mr. Yates, but at the same time he wished to avoid a *direct refusal* to nominate him, because such refusal would disaffect some of his best friends. Under these circumstances, it strikes me that the hot and indecent haste of Mr. Hoffman and his friends, was quite unjustifiable, it being most evident that as the majority of the council were decided political friends of the governor, had he been desirous that the appointment of a judge should have been made by that council, he might have effected it, even at the very time and while Mr. Hoffman was delivering his inflammatory speech against the governor and council. One object of Mr. Hoffman, however, might have been to continue and increase the agitation of the public mind. Mr. Hoffman's motion was, notwithstanding the vigorous opposition made to it, adopted, and a council was that evening chosen, consisting of Philip Schuyler, Zina Hitchcock, Selah Strong and Reuben Hopkins, the three first named gentlemen being federalists. Shortly after the creation of the new council, Egbert Benson was appointed a judge of the supreme court.

On this occasion the members of the council, for the first time, so far as I can ascertain, claimed and exercised a concurrent right with the governor, to the nomination of officers. Mr. Clinton having refused to nominate Mr. Benson, one of the council nominated him, and three of them voting for him, he was declared duly appointed. Gov. Clinton protested against this proceed-

\* The Hon. John Woodworth.

ing, insisting that the exclusive right of nomination was vested in him by the constitution.

A joint resolution, during this session, passed the assembly, requiring the council of appointment to cause the minutes of their proceedings to be published, but I cannot find that it passed the senate.

A bill was introduced into the senate, authorizing sheriffs of counties to hold their offices respectively until new sheriffs should be appointed and should duly qualify themselves for the execution of their office. A preamble was attached to this bill, making the act declaratory, and so worded as to imply a censure upon the canvassing committee of 1792; but on the motion of Mr. Tillotson, it was struck out by one majority. This vote would seem to indicate that a majority of the senate was friendly to the governor. Four senators were absent.

The assembly took into consideration the proceedings on the memorial against William Cooper, which had occupied so much of the time of that house at the last session, and which was left by them as unfinished business; but Mr. Hoffman, previous to any discussion, offered a resolution purporting that the complaints against Judge Cooper, of official misconduct, was not supported by the evidence, and that the memorial be dismissed "as *frivolous* and *vexatious*." A motion was made to strike out that part of the resolution which directed the memorial to be dismissed as *frivolous* and *vexatious*, but it failed, forty to nineteen. Among the names of those who voted with the majority, I find that of AMBROSE SPENCER. The assembly further resolved that the clerk should cause that resolution to be published in three of the public newspapers. That there was no proof of official misconduct, is undoubtedly correct, for the depositions are to be found among the

minutes of the assembly, and I have examined them with care. But unless the testimony of Andrew Cannon, James Moore, (a very respectable man,) Mr. Turnicliiff, who was then a magistrate, and Judge Hudson, of Cherry Valley, were absolutely false, surely the memorial was not "*frivolous*." This was unquestionably a party vote, and shows the great strength of the federalists that year in the assembly. [See Note A. Vol. 2.]

A bill was introduced into the assembly, which became a law, amending the statute regulating elections, and requiring the town inspectors to canvass the votes, and return the result of their canvass in the same manner substantially, as is now practised. \*

After this, nothing material occurred, as relates to the movements of the two parties, until after the election, in 1794. That election terminated as the preceding one had done, in favor of the federalists.

In the western district, Stephen Van Rensselaer and John Frey were re-elected to the senate almost without opposition. They received more than five thousand votes, and the opposing candidates failed of obtaining more than two hundred and forty.

In October, 1794, the governor caused to be published a protest, drawn up by him on the last day of the meeting of the council, which was the 24th of March preceding, and filed by him in the office of the secretary of state, against the proceedings of the majority of the council.

It appears that the council had decided, that in all cases where the number of officers, such as judges, justices of the peace, &c., was not ascertained and limited by law, the number should be fixed by the majority of the council, and that in cases where the officer was required to be commissioned annually, as in the case of sheriffs, the council had a right to resist the re-appointment of

\* See Note N.

the incumbent without assigning any cause ; and thereby, as Mr. Clinton alleged, *displacing* the officer. The governor in his protest, alleged that by the constitution he was charged with the faithful execution of the laws, and he therefore inferred, that according to the spirit of the constitution, he was, in cases not provided for by legislative enactment, vested with exclusive discretion in respect to the number of officers necessary for the proper execution of the laws. *He*, being held responsible for such execution, was necessarily the judge of the proper means of effecting it. If that discretion was confided to others, so many officers might be created as to cause confusion, or so few that the force would not be competent to accomplish the end.

Again, he alleged that although by the words of the constitution, the continuation of an incumbent in office, was, by the constitution, referred to the pleasure of the council, "*by this was not intended a capricious, arbitrary pleasure, but a sound discretion to be exercised for the promotion of the public good.*" That a contrary practice would tend to render the action of the government unstable, and the administration of justice unsafe ; and he added, that whenever parties exist, the consequence of this practice would be "*to deprive men of their offices because they have too much independence of spirit to support measures they suppose injurious to the community ; and might induce others from undue attachment to office, to sacrifice their integrity to improper considerations.*" When it is recollected, that at the time this remark was made, neither the council on whose conduct the governor animadverted, nor any other class of men, entertained for a moment, the idea of *removing* able and faithful officers because of their political opinions ; but that the governor complained because the council then in office had merely refused to *re-appoint* persons eligible to a

re-appointment, who had discharged their duty faithfully, we cannot fail to perceive the severity of this rebuke to subsequent councils, many of whom we shall see were the governor's own political friends.

Upon the publication of this document, Gen. Schuyler, Selah Strong and Zina Hitchcock, the three federal members of the council, published a very long reply to it, in which they endeavored to show that Gov. Clinton's practice had not corresponded with the precepts contained in his protest. But it will be found that they do not make out a very strong case. They cite several instances where appointments in the militia were made not according to seniority; and particularly the case of Gen. John Williams of Washington county, then a member of the state senate, who had, during the revolutionary war, been removed from the office of colonel, and expelled from the senate, in consequence of a charge against him of peculation and of defrauding the officers and privates of his regiment, but who had subsequently been appointed out of the regular order of military promotion to the office of brigadier general. The only civil case to which they refer, is that of Benjamin Gilbert, who in the winter of 1792, was appointed sheriff of the county of Otsego, and at the end of the year, in 1793, the governor had nominated, and with the consent of the council, appointed Samuel Dickson his successor, without giving Mr. Gilbert any notice of charges against him. Mr. G. was an active and zealous partizan of Judge Cooper; and the documents which had been communicated to the legislature on the subject of the rejection of the Otsego votes with the memorial against Judge Cooper, implicated him, or at least shewed him to be an heated and over-zealous partizan. That these grave counsellors, after their laborious search, should have been able to find only one instance of a civil ap-



pointment, and that an extreme one, wherein they thought they had a right to complain of the governor's practice as having been inconsistent with his doctrine, is, in my judgment, high evidence of the unexceptionable manner in which he had generally exercised the appointing power.\*

The legislature met in Poughkeepsie, January 6, 1795. Gen. North of Duanesburgh was chosen speaker. The contest was between him and the late speaker, Mr. Wat-

\* To show the manner of proceeding by the council during Gov. Clinton's administration, when an attempt was made to remove an officer who held his office during the pleasure of the appointing power, I give the following extract from the minutes of the council of 1787, at which time the collectors of the customs were appointed by that body.

"At a council of appointment held at the senate chamber in the city of New-York, on Saturday, the 21st day of April, 1787.

*Present*—His Excellency George Clinton, Esq. President,

Mr. Russell,	} Members.	Mr. Hathorn,	} Members.
Mr. Floyd,		Mr. Schuyler.	

James Giles, Esq. exhibited the following charges against John Lamb, collector of the port of New-York:

"That one Stone informed him that three cheeses were taken coming on shore from the packet, without a permit; that the collector being informed thereof, said it would not answer to libel them, as the expense of libelling was too high; that they were thereupon divided, *and the collector took one*. That Mr. Stevens, one of the tide waiters, had applied to him to libel seven cheeses which had been seized for being landed contrary to law; that he drew the libel; on which Mr. Stevens desired him to stop the prosecution, because the collector told him the expenses would exceed the value of the cheese; that the said Stevens informed him that the said cheeses were divided between the collector and him.

"The said John Lamb being present, requested of the council to be heard in his defence; whereupon *Resolved*, that the council will be ready to hear the parties with their respective evidences on Monday next, at nine o'clock in the morning," to which time the council then adjourned.

On Monday, 23d April, the council met pursuant to adjournment. The parties appeared, and the above and several other charges were exhibited by Mr. Giles and Mr. Roorback against Mr. Lamb. The record then states that

"The council having heard the proofs, and allegations in support of the several charges exhibited as aforesaid against John Lamb, esquire, and having also examined the books of the custom house, and the several manifests and vouchers, as to the duties in the several cases in which such malpractices were charged, and having duly considered the same,

"*Resolved*, That in the opinion of this council, the charges exhibited against the said John Lamb, esquire, are wholly unsupported and groundless, and that from the investigation of the said charges, and the *evidence produced* in support of them nothing hath appeared to alter in the least degree, the good opinion this council entertains of the fidelity and integrity of the said collector in the execution of his office."

son. Both gentlemen were federalists, but the northern and western members generally supported North, and he was elected by a vote of thirty-three against twenty-eight.

Governor Clinton addressed a letter to the lieutenant governor and speaker of the house, dated at Greenwich, where he then was, informing them that he was and had been for a long time confined to his room by sickness, (the inflammatory rheumatism,) and that he was apprehensive he should be unable personally to be at Poughkeepsie during the session; he therefore, instead of the usual annual speech, sent them a written message.

In his message, he exhorted the legislature to take measures for putting the state in a better condition to repel invasion, and he again urged upon the legislature the propriety of revising the criminal laws. He recommended confinement at hard labor to be substituted for the punishment of many crimes for which death was then inflicted. He also reminded the legislature, that while liberal provisions had been made for the endowment of colleges and other seminaries in which the higher branches of learning were taught, no legislative aid had yet been given to COMMON SCHOOLS, and he recommended that provisions should be made for their improvement and encouragement. This was the first official movement made in this state in behalf of those institutions—institutions upon which, under God, depend the preservation of the rights and liberties of the people of this state. I am happy to perceive that the legislature did not disregard this recommendation; on the contrary, at that very session, they passed a law appropriating annually for five years the sum of fifty thousand dollars, and directed the specific sums to be paid by the treasurer to each county. The act further provided, that the board of supervisors in the respective counties, should apportion the money among the respective towns, and a sum equal to one-half the sum received from the state by the

several towns was required to be raised by a tax on such town and added to the bounty of the state. The sum thus made up was to be distributed in each school district under the direction of town commissioners.

Jacobus Van Schoonhoven, Richard Hatfield, William Powers, and Joseph Hasbrouck were elected members of the council of appointment this year, the three former of whom were federalists. The election of Mr. Hasbrouck was unanimous. The average vote on the choice of the other members was thirty-six to twenty-nine; showing a federal majority in the assembly of seven.

The term of service of Rufus King, in the U. S. Senate, was to expire on the 4th March, 1795, and on the 27th January, he was re-elected for the six succeeding years. The vote stood for Mr. K. in the senate, two majority; in the assembly, five. About this time, Gov. Clinton published an address to the FREEHOLDERS of the state of New-York, dated on the 22nd January, in which he declined being a candidate for governor at the ensuing election. The letter, like all his written communications, is short, but it does honor to his head and heart. He had held, he said, for nearly thirty years elective offices, [he was several years a member of the colonial assembly,] which had compelled him to devote almost all his time to the discharge of the duties connected with them, and his private affairs required his attention. His health, too, had become, so much impaired, as to render it his duty to retire from active business. In allusion to the office he then held, he said he "withdrew from a situation never solicited by him, which he accepted with diffidence, and from which," said he, "I shall retire with pleasure." He thanked them cordially and feelingly for their continued confidence and support during the trying scenes through which he had passed. He was then about fifty-six years old.





John Jay

*J. M. W. Turner Esq. R. S. A.*

Lieut. Gov. Van Cortland at the same time declined a re-election in consequence of his advanced age.

Mr. Clinton had filled the executive chair from the organization of the government; but the step now taken by him rendered certain that a change in that important office would be produced at the next election. Some difficulty was felt by the federalists in the selection of a candidate for governor. Mr. Hamilton was spoken of, but he positively declined. Mr. Jay was in England, where he had been sent, much against his own wishes, to negotiate a treaty with the government of that country. He was beyond question, not only the most competent, but personally the most unexceptionable candidate; and the indignation felt at the manner in which his election had been defeated in 1792, furnished additional capital in his favor. It was, however, then generally anticipated that Mr. Jay would conclude a treaty with Great Britain, and the warm sympathy felt for the French republic, combined with the existing prejudices against Great Britain, which pervaded the mass of people in the state of New-York, rendered it more than probable, that Mr. Jay's treaty would be unpopular, and that a portion of odium would attach to the negociator. This consideration might well have excited, and did in fact produce doubts of the expediency of fixing upon Mr. Jay as the gubernatorial candidate; but then it was expected that the contents of the treaty, if one should be concluded, would not be made public until after the election, and it would be too absurd for a party to oppose Mr. Jay for agreeing to make a treaty, without knowing what that treaty contained. The event justified the expectation of the federalists. The contents of the treaty were not publicly known till the 2nd July, 1795.

The federalists finally, at a sort of legislative caucus, nominated John Jay for governor, and Stephen Van Rensselaer for lieutenant governor. Mr. William Jay (1 Jay, 355) says this nomination was made without the knowledge of his father.

The democratic party, after anxiously looking about for candidates, at length selected Chief Justice Yates for governor, and William Floyd for lieutenant governor. Col. Burr had been spoken of as a candidate, I believe, by individuals of both parties, but his nomination by the majority of either party could not be obtained. Judge Yates surely could not complain of a want of public attention, for within the space of six years, he was the candidate for both political parties, and must at one time and the other have received the votes of nearly all the freeholders in the state. If we were allowed to consider the two elections one, he actually received the votes of nearly all the freeholders in the state for the office of governor, and yet was not elected. Was not such a result politically right?

At the April election, in 1795, Mr. Jay and Mr. Van Rensselaer received a large majority of the votes of the freeholders of the state, and were declared by the state canvassers duly elected. The federalists also obtained a majority in both houses of the legislature.

## CHAPTER IV.

FROM APRIL, 1795, TO MAY, 1796.

THE senators elected this year, were John D. Coe, Richard Hatfield, Philip Livingston, Ambrose Spencer and John Frey, all of them federalists.

DE WITT CLINTON, afterwards governor of the state, was one of the candidates of the republicans of New-York, for member of the assembly from the city, but failed of obtaining his election.

The result of the state canvass was declared on the 26th May, and two days afterwards, Mr. Jay arrived in New-York, from the court of London, after an absence of a year and sixteen days.\* His arrival was hailed by the acclamations of the inhabitants of his native city. "A large concourse of citizens," says Mr. William Jay, "assembled to welcome their new governor, and to greet the envoy whose successful mission procured peace to the country; the crowd attended him to his dwelling, and the ringing of bells and the firing of cannon evinced the joy his arrival had inspired."—(1 *Jay*, 356.)

Although the biography of Gov. Jay, to which I have referred, was written by his son, Judge Jay of Westchester county, it is nevertheless most evidently executed with great candor and impartiality, and a sacred regard to truth, as is everything else that comes from the pen of that pure and benevolent man. Notwithstanding this, I

\* He sailed for England, May 12, 1794.—1 *Jay*, 314.



cannot but suggest that public demonstrations of approbation and respect for men possessed of power, and who at their discretion, dispose of state patronage, are in most instances, even in this free country, extremely deceptive. That there were many in that great assemblage of citizens, who joined with the multitude in shouting hosannas to Mr. Jay, "who followed him for the *loaves and fishes*," but whose hearts at that moment burned with envy and jealousy, I have not a shadow of doubt. The outbreak of popular indignation which shortly afterwards was exhibited on the publication of the British treaty, affords presumptive evidence of the truth of this suggestion.

It would be quite foreign from my object to discuss the merits of that treaty, and at this time, such a discussion would be useless, even if its merits came within the scope of the task I have undertaken to perform. It must suffice to remark, that while on the one hand, I believe it will be now admitted, that the treaty did contain some stipulations seriously objectionable; on the other, that, considering the relative situation of the two nations, it was the best treaty which could at that time have been obtained, that few men, and perhaps no other man in the United States except Mr. Jay, would have been able to have procured a treaty as favorable to America as the one in question;\* that its rejection would have brought on a war between Great Britain and this country, and that its ratification with all its imperfections, was less injurious to the United States than a war at that time would have been.

But so prevalent was party spirit, and so intemperate was its zeal, that the treaty was denounced before its contents were known. Some of the newspapers, claiming to be republican, being, as I fear, too much under the influence of Mr. Genet, who dexterously availed himself of

\* Gov. Jay and Lord Grenville the British negotiator, were personal friends

the sympathy of the Americans in favor of the French in their struggle for liberty and equality, before it was known what the treaty contained, discoursed in the following manner : " The United States are a republic. Is it advantageous for a republic to have a connexion with a monarch ? Treaties lead to war. \* \* \* If the influence of a treaty is added to the influence which Great Britain already has *in our government*, we shall be colonized anew." \* \* \* " No treaty ought to have been made with Great Britain. \* \* To make a treaty with Great Britain is forming connexion with a monarch."

On the 2d of July, the treaty was published in a newspaper in Philadelphia. " This act" says Wm. Jay, " was putting the torch to that vast mass of combustibles which the party had long been engaged in collecting, and the intended explosion instantly followed." Mr. Jay was burnt in effigy by the mob in Philadelphia, two days after the treaty was made public. The effigy bore a pair of scales, one labelled " American Liberty and Independence," and the other " British Gold." From the mouth of the figure, proceeded the following words : " Come up to my price, and I will sell you my country." Public meetings were held in almost every part of the union, denouncing the treaty. In New-York, one was convened in the open air, and attended by an immense crowd. Gen. Hamilton attempted to address the meeting, but was pelted with stones, and compelled to retreat. The party, after adopting violent resolutions against the treaty, marched with the American and French colors flying, to a place opposite the governor's house, and burned the treaty.—(1. *Jay*, 360.)

It is by no means impossible, that some of the very men who were active in this violent outrage, composed a part of the company who but " a little month " before, had con-

ducted Mr. Jay to his house with shouts of applause—so transient is popular favor !

It would be doing injustice to the great body of the republicans of this state, to charge them with participating in, or approving of, these outrages. The candid and reflecting part of that party opposed Mr. Jay, because they considered him as acting in concert with Gen. Hamilton, in the attempt to monopolize and so to bestow the patronage of the general government as to prostrate all who, (however conscientiously,) had opposed the adoption of the federal constitution ; and especially Governor Clinton, whom the republicans considered an able statesman and sound patriot. They also apprehended that Mr. Jay being now constituted the dispenser of the patronage of the state government would, in connection with Gen. Hamilton, who in reality wielded the national patronage, so distribute the same as greatly to increase the personal influence of Mr. Hamilton and his immediate coadjutors, which they considered already too formidable. But the substantial ground of opposition, by the republicans to Mr. Jay and the leading federalists was, that they entirely disapproved of some of their avowed political opinions, of which I shall speak more particularly hereafter, in relation to the powers which of right ought to be exercised by the general government.

If the British treaty had been published on the first of April, instead of the first of July, it is not probable that Mr. Jay would have been elected governor ; for to those who from the considerations I have just mentioned were opposed to him, would have been added all those who, at the instant the treaty was published, disapproved of it. It is true Mr. Jay was re-elected in 1798, but that was after the federal party had had ample time to rally from the shock produced by the publication of the treaty, and after they had for three years enjoyed the aid of the patronage

of the state and national governments, with which to strengthen themselves. In proof that this hypothesis is correct, it may be remarked, that the city of New-York, which until the summer of 1795, was nearly unanimously federal, in December, (the month in which the election of members of congress was at that time made,) Mr. Edward Livingston, a very decided republican was elected to congress in opposition to Mr. James Watson, a very popular man, who was the federal candidate.

On the 6th January, 1796, the legislature convened in the city of New-York. Gen. North was again elected speaker against Mr. Watson, by a vote of twenty-nine to eighteen.

The new governor in his speech at the opening of the session, after expressing his gratitude to the freeholders of the state for the confidence placed in him, as evinced by their votes at the recent election, declared his determination "to regard all his fellow-citizens with an equal eye, and to cherish and advance merit *wherever found*." This determination was in theory noble, and deserving of the highest commendation ; but it is deeply to be regretted that neither Gov. Jay or any other individual holding the appointing power could, even if sincerely disposed, carry it into effect in the then, and in the present, state of public feeling, without a sacrifice of himself and his party. The best and most virtuous men *must*, in the distribution of patronage, yield to the influence of party considerations. This is excused, if not justified, by the following process of reasoning :—An honest and patriotic citizen will, from conscientious motives, attach himself to that party which he believes will pursue those measures which, in his judgment, are best calculated to advance the prosperity and happiness, and most effectually preserve the liberty and independence of his country. If vested with the appointing power, it therefore becomes his duty to confer offices

on such men as will use the influence created by such office, to increase and strengthen that party, the ascendancy of which, in the opinion of the person appointing, is identified with the best interests of the state. Hence, although he ought not under any circumstances, to appoint incompetent or unworthy men to office, yet between worthy men of equal capacity, it is his duty to select those who concur with him in opinion, as respects the measures best calculated to advance the public good. This reasoning, if not conclusive, is at least plausible. The governor recommended to the legislature to provide without delay for the defence of the state in case of war. In the course of his speech, he stated that doubts had arisen as to the true construction of the constitution in relation to the exclusive right of the person administering the government, to nominate all officers to the council of appointment: alluding, no doubt, to the disputes between the late Gov. Clinton and the council, which occurred at the recent appointment of Judge Benson; and he requested the legislature to pass a declaratory law on that subject. He also recommended that provisions should be made for the payment of a salary or pension to the chancellor and judges of the supreme court, after they should become ineligible by age to hold their respective offices.

The answer of the two houses was respectful and highly complimentary. To show how far the senate were inclined to extend their courtesy to the executive, and to soothe if not flatter the feelings of the governor, I cannot forbear to note, that in the original draft of the answer of the senate, I find the following sentence: "The evidence of ability, integrity and patriotism which have been afforded by your conduct, in the discharge of the variety of arduous and important public trusts, authorize us to anticipate an administration conducive to the welfare of your constituents." When the senate was in committee of the

whole on the answer as reported by the select committee, Mr. Spencer moved to add the word "*invariably*" between the words "*been*" and "*afforded*," so that the sentence would read, "The evidence of ability, integrity and patriotism which have been *invariably* afforded," &c. In favor of this amendment, were Cruger, Hatfield, Frey, Jones, Ph. Livingston, Myers, Russell, Schuyler, Spencer, Strong, and Van Schoonhoven, 11; against it, were Cantine, Hopkins, L'Hommedieu, Abm. Schenck, John Schenck, and Woodworth, 6. It is unnecessary to comment on this instance of legislative sycophancy.

So far as the two houses referred in their answer to particular parts of the governor's speech, they concurred with him in the measures which he recommended, but they carefully avoided any allusions to the questions relating to the exclusive right of the governor to nominate to office, or the propriety of pensioning the chancellor and judges of the supreme court. The legislature declined acting on either of those subjects.\* On this question the parties were situated rather singularly; and action upon it would have been embarrassing to each of them. The federalists whose interest it now was that the governor should retain the exclusive right of nomination, could not pass an act declaring that right vested in him, without an indirect censure upon their friends in and out of the council of appointment, who insisted that, by the constitution, the council held a right of nomination concurrent with the governor, at the time when Egbert Benson was appointed a judge of the supreme court. On the other hand, it had now become the interest of the republican party, which then contended that the governor was vested with the exclusive right of nomination, to resist the exercise of the

\* Gen. Morris of Otsego did, it is true, on the 29th January, on his own motion, bring a bill into the assembly declaring that the governor possessed the sole right of nominating to office, but it does not appear to have been acted upon definitely.

right, and of course, to deny that it existed. Under such circumstances, it is not at all surprising that Mr. Morris was unable to obtain any decisive action on his bill, although it was recommended by the governor.

It is to be presumed that reflecting men of both parties, were indisposed to commence the practice of pensioning persons who had held civil offices, because they had held them.

The council of appointment chosen this year consisted of Joshua Sands, Abraham Schenck, Ebenezer Russell, and Michael Myers, three of whom were federalists.

During the session, Mr. Jones brought in a bill to facilitate the trial of criminal cases at the oyer and terminer courts, by dividing the state into districts and providing for the appointment of a prosecuting attorney in each district, which passed into a law. I observe that these officers were called assistant attorney generals, a name more appropriate than that of district attorneys, which has since been given them. Jacob Ratcliff was, under this law, appointed assistant attorney general for the district composed of Dutchess, Orange, and Ulster; Ambrose Spencer for the district composed of Columbia, &c. Mr. James Kent, who had recently removed from the county of Dutchess to the city of New-York, was appointed master in chancery. All these gentlemen afterwards held high judicial stations.

By a census returned to the office of the secretary of state on the 20th January, 1796, it appeared that the number of freeholders in the state amounted to thirty-six thousand three hundred and thirty-eight, and the voters, including voters for members of assembly, amounted to sixty-six thousand and seventeen. The number of freeholders in the city and county of New-York, were two thousand one hundred and forty-four, and the total number of voters seven thousand two hundred and seventy-two. The

great increase of freeholders, since the last census had been taken, was caused principally by the constant and rapid emigration from the New England states to the western district. That district then included the county of Albany and all the counties west of it.

At the time of the adoption of the constitution, in 1777, the number of senators was fixed at twenty-four, but, by the twelfth article, when the number of electors in any one district should increase to an amount equal to one twenty-fourth of their whole number in the state, as then existing, an additional senator should be chosen by such district; and, by another article, the number of senators might be thus increased until the whole number of senators should amount to one hundred. Therefore, according to the census of 1796, in pursuance of these regulations, forty-four senators were to be chosen, seventeen of whom were to be elected from the western district. But, for the purpose of equalizing the districts, an act was soon afterwards passed, annexing the counties of Albany and Saratoga to the eastern district.

Governor Jay was known to be in favor of the abolition of slavery in this state; but he omitted, as his son (Judge Jay) thinks, to recommend that measure in his speech, "from the conviction that in the present state of politics such a proposition emanating from him would enlist the spirit of party in opposition to a measure against which the prejudices of a large portion of the community were already enlisted." But, according to the same writer, a few days after the commencement of the session, "an intimate friend of the governor's obtained leave to introduce a bill for the gradual abolition of slavery."—(1 *Jay*, 390.)

The bill underwent a long and somewhat heated discussion, and was finally got rid of by a resolution offered by one of the members opposed to abolition, purporting



that it would be unjust to deprive any citizen of his property, unless a reasonable compensation for the value of it should be paid to him by the state. On this resolution, the vote stood thirty-one to thirty-one, but it was carried by the casting vote of the chairman of the committee of the whole. Mr. Foote, afterwards first judge of the county of Delaware, was the chairman, and gave the casting vote.

No other material event operating on the action of political parties, occurred during this session of the legislature.

4 The election in the spring of 1796, terminated highly favorable to the federalists. The excitement in relation to the British treaty had partially subsided. The violent conduct of the French republic and their agent in this country, the popularity of Gen. Washington, the purity of Gov. Jay's character, and the rectitude of his conduct, together with the governmental patronage, had enabled the federalists to recover the ground which they lost immediately after the promulgation of the treaty. In the southern district, Messrs. Haight, Onderdonk, Strong, and Watson were elected to the senate by a majority of about fifteen hundred. In the middle district, the senators chosen were, Robert Sands, C. Tappan and Wm. Thomson. The election in this district was very close, Mr. Tappan being the only republican who succeeded. In the eastern district, E. Clarke, M. Vail, J. Savage, P. Sylvester and A. Ten Eyck, all federalists, were chosen by a majority of from one to eight hundred. In the western district, the federal ticket succeeded almost without opposition, and Jed. Sanger, Jas. Gordon, Leonard Gansevoort, Thomas Morris, Thomas R. Gold, John Richardson, Johannes Dietz, Vincent Matthews, Jacob Morris, Leonard Brown, Francis Nicol, Joseph White, and Abraham Arndt were elected. The great number of new senators

chosen from the western district gave the federalists a prodigious preponderance in the senate.

The legislature met in the city of New-York, on the first of November. The occasion of meeting thus early was in order to make choice of presidential electors. Gulian Verplanck of New-York, was chosen speaker. The governor's speech contained nothing which it is necessary particularly to notice. It is, however, an excellent document, and the youthful student will find himself well repaid for perusing it. The governor's eulogy upon Gen. Washington, who had declined a re-election, is admirable. Upon the refusal of Washington to become a third time a candidate for the presidency, the federalists of the northern and eastern states were in favor of Mr. John Adams. That such was the inclination of an immense majority of the federalists of New-York, I have no manner of doubt. That Gov. Jay was not only the political, but personal friend of Mr. Adams, is most evident from his correspondence with that distinguished individual.—(See 1 *Jay*, 417.) But from a letter or pamphlet, written and published by Gen. Hamilton, in the year 1800, on which I shall have occasion hereafter to remark more particularly, it appears that *his* favorite candidate for the presidency was Thomas Pinckney, of South-Carolina, the federal candidate for vice-president. I hardly need mention, that by the United States constitution previous to its amendment, which was made shortly after the election of 1800, the president and vice-president were to be both voted for on one ticket, without designating which was intended for the one or the other office; and the person having the highest number of votes was elected president, and he who received the next highest number of votes was chosen vice-president. Mr. Hamilton urged the northern and eastern federalists to give Messrs. Adams and Pinckney an equal number of votes, and it appears

from the letter to which I have referred, that he hoped that by chance or some other means, Mr. Adams might be left off of some of the southern tickets, which contained the name of Mr. Pinckney, and in that event he would have been elected. This event actually occurred. The state of South-Carolina gave eight votes to Thomas Pinckney, and eight votes to Thomas Jefferson. Whether this was done by "chance" or design, it would have caused the election of Mr. Pinckney for president, had all the other federal states followed the advice of Gen. Hamilton, and it is not improbable that he and some of his South-Carolina friends expected they would do so; but, unfortunately for the projectors of the scheme, if such a scheme was projected, the federal states of Rhode-Island and New-Hampshire gave their votes for Oliver Ellsworth, Massachusetts gave two votes to Samuel Johnson, and Connecticut gave four votes to John Jay, in consequence of which Mr. Pinckney fell behind Mr. Jefferson, the republican candidate, who was elected vice-president.\*

At the time of the choice of presidential electors in New-York, the republican party must have been much discouraged and disheartened by the result of the recent

\* As I shall have occasion again to refer to this election, I will here give the result of the presidential canvass, as ascertained in congress, Feb. 8, 1797.

	Adams.	Jefferson.	Pinckney.	Burr.	S. Adams.	Clinton.
Tennessee, .....	—	3	—	3	—	—
Kentucky, .....	—	4	—	4	—	—
Georgia, .....	—	4	—	—	—	4
S. Carolina, .....	—	8	8	—	—	—
N. Carolina, .....	1	11	1	6	—	—
Virginia, .....	1	20	1	1	15	—
Maryland, .....	7	4	4	3	—	—
Delaware, .....	3	—	3	—	—	—
Pennsylvania, .....	1	14	2	13	—	—
New-Jersey, .....	7	—	7	—	—	—
New-York, .....	13	—	12	—	—	—
Connecticut, a, .....	9	—	4	—	—	—
Rhode Island, b, .....	4	—	—	—	—	—
Massachusetts, c, .....	16	—	12	—	—	—
Vermont, .....	4	—	4	—	—	—
New-Hampshire, d, .....	6	—	—	—	—	—
	71	68	68	30	15	4

a. John Jay, 4 votes. b. Oliver Ellsworth, 4. c. S. Johnson, 2. d. Oliver Ellsworth, 6.

election, and it is not probable that any considerable interest was felt in the selection of candidates, either for president or vice-president. There can, however, be little doubt but that they were unanimous in their desire that Mr. Jefferson should be elected president, and that Geo. Clinton was their favorite candidate for the vice-presidency, however faint might be their hopes of success. The result of the canvass proves, that the democratic party in the nation, had not, as a party, fixed upon any individual as their candidate for vice-president. Col. Burr, being at that time in the senate of the U. S., and in habits of daily intercourse with the southern republicans, received the greatest number of the democratic votes, but the votes of Georgia were given to gov. Clinton, and fifteen of the votes of Virginia were cast for Samuel Adams of Massachusetts. Before I dismiss this subject, I cannot help remarking, that, at this early period, local and sectional feelings seem to have had an influence. It is impossible, in any other way, to account for the fact that Mr. Adams received but two votes south of the Potomac, and that Mr. Jefferson obtained but eighteen votes, (and those were from Penn. and Maryland,) north of that river; and that this took place, notwithstanding the election was so very close,—the majority for Mr. Adams being only three.

The legislature, early in the session, proceeded to choose presidential electors. All of them, were of course, federalists, and they, therefore, gave the twelve votes of the state of New-York, to Mr. Adams, and Mr. Thomas Pinckney of South Carolina.

Mr. Rufus King had been recently appointed minister to London, which left his seat in the U. S. senate vacant. It therefore became necessary to appoint a successor. The two houses thereupon elected to that office John Lawrence. What were the peculiar circumstances which induced this gentleman's election, I have never been in-

formed. He had, I believe, served in the army of the revolution, as colonel of a regiment, and, after the peace, had devoted himself to the practice of law in the city of New-York, and was, at the time of his election, an U. S. judge of the district of New-York.

On the 11th Nov. the legislature adjourned to meet at the city of Albany, on the 3d of January, and on that day accordingly, the two houses convened at Albany. On the 13th January, 1797, the assembly chose the following gentlemen members of the council of appointment, for the ensuing year: Andrew Onderdonk, Ambrose Spencer, Leonard Gansevoort, and Thomas Morris, all federalists.

A law was passed this year, creating the office of comptroller. This bill transferred the powers and duties of the auditor to the comptroller, and conferred on the latter officer other powers, and required of him the performance of other duties. It was evidently the intention of the framers of the constitution, that the treasurer should be the great financial officer of the government; hence, the extreme caution in relation to the frequency, and manner of his appointment. But the law creating a comptroller, of which Mr. Jones seems to have been the principal author, and the subsequent acts of the legislature, in connexion with the natural working of the governmental machinery, have constituted the comptroller the great state officer; and the treasurer has become a mere clerk to the comptroller: a nominal keeper of the funds of the state, which are managed and disbursed under the direction of the comptroller. On the industry, capacity, and integrity of that officer, the prosperity of the state is more dependant than any single officer of the government, whether such officer is created by the appointing power or by the election of the people. After the adjournment of the legislature, Gen. Banker, treasurer, resigned his office as

treasurer. Mr. Samuel Jones of the senate, was appointed by the council of appointment, the first comptroller.

The county of Delaware, was this year erected from the counties of Otsego and Ulster, with the right of sending two members to the legislature. A law also was passed fixing permanently the seat of government in the city of Albany, and measures were taken for the erection of public buildings, for the accommodation of the state officers.

The term of service of Aaron Burr in the senate of the United States, expired this year, and on the 31st of March, three days before the adjournment of the legislature, they elected Gen. Philip Schuyler to that office. This evidence of continued confidence on the part of his friends, must have been extremely grateful to his feelings, after he had been beaten in the manner I have before related, by Col. Burr. It is evident that the General, appreciated with great sensibility, this appointment; for, on the occasion, he delivered a short address to the legislature. His speech evinced much good feeling, and was, rather unusual for him, conciliatory in manner and matter. He said he had been forty years in the public service, and had determined to retire to private life when his term in the state senate should expire, but that the recent appointment and the manner in which it had been conferred on him, imposed on him an obligation to forego his private inclinations. He stated that his feelings were ardent in support of his political principles; but he declared that he retained no unkind impressions against those who differed from him in opinion, in relation to public men or measures, and he trusted that his opponents entertained corresponding friendly sentiments towards him. He concluded with an ardent and patriotic prayer for the preservation of our civil institutions, and for the prosperity of the state.

Indications began to be exhibited, in various parts of this state, of jealousy and dissatisfaction respecting the

manner in which the national concerns were managed ; particularly in respect to our foreign affairs, and especially in relation to the French republic. The congressional election which took place in December, 1796, had terminated more favorable to the republican party than had been anticipated. Edward Livingston had been re-elected from New-York ; J. N. Havens from Suffolk ; Lucas El-mendorff from Ulster, and Philip Van Cortland from Westchester, all republicans, notwithstanding they respectively encountered a zealous opposition from the federalists.

In the city of New-York, on the 6th February, 1796, a grand celebration of the ninth anniversary of the treaty of alliance between France and America, was held, attended by many distinguished republican citizens of New-York, and also by a considerable number of French citizens. The meeting, it is said, was eloquently addressed by Brockholts Livingston. The toasts drank on the occasion, may be considered as indicating the feelings of the company. On the subject of the president and the national government, they were silent. One of the regular toasts was, "*The British Treaty*—May it be an awful lesson how to trust to the justice and magnanimity of those who ever have, and still do seek, the ruin of our commerce, and destruction of our liberty."

The celebrated *Napper Tandy* gave for a toast—"The virtuous citizens of New-York, who, despite of British influence, returned their faithful representative to congress."

By *Chancellor Livingston*—"May the present coolness between France and America, produce, like the quarrels of lovers, a renewal of love."

It will be recollected, that Chancellor Livingston, at the time of the adoption of the constitution, was an ardent federalist ; and, I now add, that it is very doubtful whether, without his eloquence and personal influence,

the Poughkeepsie convention would have adopted it. He continued to act with the federalists for some time afterwards, and was politically opposed to Gov. Clinton and his party. A little before the period of which I am now speaking, he and his immediate connexions, known as the "*Livingston family*," shifted their position, and took ground in opposition to the state and national administrations. What were the causes which produced a change in the politics of the chancellor? and at what time did that change take place? Being myself unable to solve these questions, I caused the inquiry to be made of a neighbor and cotemporary of Mr. Livingston, though some years his junior, and who for a long time held with distinguished ability, a high office under the government of this state. His reply was, "The chancellor changed in 1790. The *ostensible* cause was, his opposition to the views of Mr. Hamilton, as contained in his reports as secretary of the treasury, particularly those in relation to the funding of the national debt, and in favor of a national bank. The *real* cause was supposed to be disappointment in not being appointed chief justice of the United States." It is proper to add, that this information is derived from an ardent friend of Gen. Hamilton, and of course, an opponent of the chancellor. I have since been informed that *the family* one evening had a meeting for the purpose of deliberating on the subject, and that the result of their deliberations was such, that the next morning every member of it took a position in the ranks of the republican party. It is, however, to be remarked, that some of the Livingstons who resided in Columbia county, did not change with the chancellor, but continued their adherence to the federal party. Chancellor Livingston was one of the most eloquent men of his day. He possessed talents highly respectable as a lawyer and statesman, though perhaps he may have been defective in that intense, per-



severing application to study, absolutely necessary in order to enable the most gifted individual to sustain and retain a high standing among the legal profession as a jurist. His manners were said to be exceedingly agreeable and fascinating. He was, as we have seen, one of the most efficient agents in procuring the adoption of the constitution. But in the selection of the great officers of the general government, the heads of departments, the supreme judiciary, and foreign embassies, he had been wholly overlooked. Is it wonderful that he should have been dissatisfied? How is this neglect of the chancellor, with his shining talents, his fascinating address, and powerful family connexions, to be accounted for? Was it owing to the personal jealousy of Gen. Hamilton?—Be the cause of that and his political change, what it may, it is obvious that the accession of the Livingston family to the republican party, rendered that party far more powerful than otherwise it would have been, and accelerated, if it did not produce, their triumph over their opponents.

The general election of April, 1797, afforded an evidence that the republican party were gaining ground, particularly in the southern district. Mr. L'Hommedieu, who began now to act with the democracy, had been returned as senator from that district.

In the eastern district, Messrs. Van Vechten, Ten Eyck, Van Schoonhoven and Clark, and in the western, Messrs. Phelps, Thomas Morris and M. Myers, all federalists were elected senators.

In New-York, the republican candidates were elected by more than an average majority of one thousand. Among the members elected from the city, I find those of Aaron Burr, Samuel L. Mitchell, (the learned Doctor Mitchell) and De Witt Clinton. This gentleman, who afterwards became so distinguished in this state, was the son of Gen. James Clinton, and nephew to Gov. George

Clinton. He was then about 28 years old. He had at an early age graduated at Columbia College, with high reputation for his scholastic attainments, and soon after commenced reading law in the office of Samuel Jones, whom I have several times mentioned as one of the most efficient members of the legislature.

Mr. Clinton did not, however, complete his studies without some interruption. In consequence of the death of an elder brother, who was private secretary to the governor, he was persuaded to relinquish for a time his legal studies, and officiate in the office which had become vacant by his brother's death. This was in the midst of the heat of debate on the subject of the adoption of the federal constitution. He took side in that controversy with his uncle, the governor, and though young, was one of the ablest newspaper writers in opposition to those who advocated the adoption of the constitution. When, in 1795, Mr. Jay was elected governor, Mr. Clinton was relieved from every public employment, and again resorted to the study and practice of law in the city of New-York. Although he was distinctly known as a member of the republican party, and an active one, and notwithstanding he had written and said much against the federal constitution, yet after that instrument had become the supreme law of the land he manifested his determination, and urged his friends to support it in good faith. He also was far from tolerating or apologizing for the insolent conduct of the French government towards this country, or the impertinent and officious intermeddling of Mr. Genet, and other French agents, with our domestic affairs, and with the opinions of the American people. Hence some leading federalists in New-York entertained strong hopes that he would abandon the republican party; and I have heard it asserted that Gen. Hamilton had expressed an opinion that Mr. De Witt Clinton would ultimately be

identified with the federal party. Nothing material occurred during the recess of the legislature.

The legislature elected in April, 1797, met at Albany on the 2d January, 1798. In the assembly, one hundred and one members appeared and took their seats, and Derick Ten Eyck was chosen speaker, against Mr. William Duning, by a vote of fifty-nine to forty-two. This seemed to have been a clear party vote, and therefore exhibits the strength of the parties during that session in the assembly. The governor, in his speech, confined himself to such domestic affairs and regulations of the state as in his judgment demanded the attention of the legislature. His address was judicious, and, as usual, able; but he carefully avoided any allusion to the political topics in controversy between the two parties.

On the 3d of January, the assembly proceeded to nominate a council of appointment; and Ezra L'Hommedieu, William Thompson, Moses Vail, and Joseph White were chosen.

In the early part of the session, Mr. Spencer raised a question whether the incumbent of the office of comptroller could, with propriety, hold a seat in the senate, by introducing a resolution that the seat of Samuel Jones be declared vacant, in consequence of his acceptance of the office of comptroller. This resolution elicited considerable debate, but it was finally negatived by a large majority.

Gen. Schuyler, by a written communication, asked and obtained leave to resign his office as senator in the senate of the United States, and on the 12th of January, the two houses nominated and appointed John Sloss Hobart, one of the judges of the supreme court, his successor.

Judge Hobart soon afterwards addressed a letter of some length to the legislature. In this communication he

states that *he was not bred to the profession of law*; that he accepted the office when the supreme court was first organized, and had held it for twenty years; that the salary, for a considerable part of the time, had, in consequence of the extreme pecuniary embarrassments of the state, been insufficient to defray the expenses of his family; that with a view of adding to his means of living, he purchased a farm, for which he was utterly unable to pay; and in conclusion he states that he accepts the office of senator in the full confidence that "the legislature of his own state will not suffer an old servant to drink of the bitter cup of poverty and distress in the evening of his life."

It is somewhat remarkable that a man who had not studied the law as a profession, should have been selected for a judge of the supreme court. But then, we are to recollect that he was appointed in 1777, during the most perilous period of the revolutionary war; that able whig lawyers were then rarely to be found; and that probably patriotism, integrity and sound discretion and judgment were more sought after, and in fact, in those times more needed, than high legal attainments.

There are no reports of adjudications of the supreme court while Judge Hobart sat as one of its members; but from a letter written by him to Gov. Jay in 1795, on the subject of the governor's thanksgiving proclamation, (1 Jay, 386,) it may be inferred that he was a man of wit, and a scholar.

The fact that Judge Hobart was not bred a lawyer accounts for the appointment of Robert Yates chief justice, when Hobart was the senior judge.

Shortly after the communication of Judge Hobart to the legislature, of which I have been speaking, was received, a motion was made that some pecuniary provisions should be made for him, and also for the Chief Justice, Yates,

whose term of office was about to expire, but nothing effectual was done on the subject.

The expiration of the term of office of Chief Justice Yates,\* and the resignation of Judge Hobart produced two vacancies on the bench of the supreme court.

In the month of February, JAMES KENT, then recorder of New-York, was appointed to supply one of the vacancies, and John Lansing, Junior, was appointed chief justice; but no appointment of a fifth judge was made until the 9th of August following, when John Cozine was appointed. He, however, died within a very short time after his appointment, and on the 27th December, 1798, Jacob Radcliff, then assistant attorney general for the counties of Dutchess, Ulster and Orange, was appointed in place of the deceased judge.

During this session, Robert McClellan, who afterwards became a defaulter, was appointed state treasurer.

The office of secretary of state became vacant by the death of Mr. Scott, and Major Daniel Hale of Albany, was appointed to that office. This appointment was made against the wishes of Gov. Jay, and in consequence of the strenuous effort of Doct. Joseph White, a member of the council from the western district. Gov. Jay nominated several persons, who were promptly rejected by the council, and at last very reluctantly nominated Mr. Hale. Mr. Hale, it is said, was an excellent officer, and the governor soon became convinced that his opposition to the appointment was caused by erroneous impressions, and

\* Chief Justice Yates never afterwards held any office of importance. Although not distinguished as a great man or learned jurist, I have never heard his integrity or impartiality as a judge impeached. In his temper and disposition he was amiable, and his social qualities rendered him agreeable and interesting to all classes in community. He was likewise kind and generous. Unhappily these qualities caused him to be too inattentive to his pecuniary concerns, and he died poor. Upon his decease, his son, John Van Ness Yates, Esquire, found his estate insufficient to pay his debts, and afterwards, as I am informed, from his own earnings, from filial affection and a regard to the memory of his father, very much to his own honor, paid all the creditors. Ought the state to have permitted this?

when so convinced he lost no time in communicating to Doct. White and Major Hale his conviction that he was well satisfied that he was wrong, and that the friends of Mr. Hale were right.

After the legislature had adjourned, (which was on the 7th April,) Judge Hobart was appointed by the president a district judge for the district of New-York, and thereupon (the vacancy in the U. S. senate happening during the recess of the legislature,) Gov. Jay appointed Gen. William North of Duanesburgh, to supply the vacancy in the senate.

The electioneering campaign was opened with great vigor in the winter of 1798.

On the 6th March, at a very general meeting of the federal members of the legislature, and citizens from various parts of the state, John Jay and Stephen Van Rensselaer were nominated for re-election. Chancellor Livingston was nominated by the republican party in opposition to Mr. Jay. The republicans made no nomination for lieutenant governor, but I believe generally concurred in the support of Mr. Van Rensselaer. The great and well merited personal popularity of the lieutenant governor, probably induced this course.

Judge Wm. Jay says, (1 Jay, 400,) that "Governor Jay would gladly have retired from the contest, but the indignities which France was at that time, heaping upon this country, and the probability that they would soon lead to a war, forbade him to consult only his personal gratification." "No competitor could, probably, have been selected with whom he would have been more reluctant to contend, than Chancellor Livingston. Ancient friendship, and ancient associations, must have rendered it peculiarly painful to him, to find in his old companion and fellow laborer, a voluntary rival." The subsequent conduct of Gov. Jay, renders it extremely

probable that this opinion of Judge Jay, in relation to the motives and desires of his father, is correct.

Although some of the unpopular measures of the administration of Mr. Adams, had been adopted, and had been met by strong and vigorous opposition by the leading democrats in this state, as well as in other states of the Union, particularly the southern, yet sufficient time had not elapsed to enable the great mass of the yeomanry of the country to become so well acquainted with the merits and demerits of the federal administration, as to prepare them to pronounce a judgement of condemnation ; and the offensive conduct of Genet, and the attitude assumed by the French republic towards the American government, induced a majority of the people of this state to support, for the present the national administration, and of course, to sustain the re-election of Gov. Jay, in the purity of whose motives all men had unlimited confidence. He was therefore elected by, at that time, the large majority of two thousand three hundred and eighty votes.

IX

## CHAPTER V.

FROM MAY 1, 1798, TO MAY 1, 1801.

ALTHOUGH Gov. Jay had been re-elected by a triumphant majority, the election evinced that the republican party was the rising party in the state. In the southern district, De Witt Clinton and David Gelston were elected to the senate; Ambrose Spencer, John Schenck and Ebenezer Foote, from the middle; Leonard Gansevoort, John Frey and John Saunders, from the eastern, and William Beekman, Frederick Getman and Thomas R. Gold, from the western district, were returned members of the senate. The city of New-York again returned republican members of the assembly, among whom, were Aaron Burr and John Swartwout. Washington county also elected democratic members of the assembly, in despite of the strenuous exertions of Gen. John Williams, who had changed from a zealous democrat to a most heated federalist. He was the federal candidate for congress, from the district composed of Washington, Clinton and Saratoga counties, but was beaten by Judge Thompson of Saratoga, who was the republican candidate.

Several gentlemen, who afterwards made a distinguished figure in the democratic party, this year made their first appearance in public life, in the assembly. Among them may be mentioned, David Thomas, of the county of Washington, Erastus Root, of the county of Delaware, Archibald McIntyre, of the county of Montgomery, Obadiah German, of the county of Chenango, and Jedediah Peck, of the county of Otsego. Mr. Peck had been elected as a federalist, or rather, strictly speaking, the federal party in that county could hardly be said at that time, to have had




any opposition, but in the course of the session, he generally acted with the republicans, and finally became identified with that party.

The year which succeeded the election, in April, 1798, was one of unusual, perhaps unsurpassed, political excitement in the United States ; but in no state was party heat more intense than in the state of New-York. All the old animosities which were generated in 1788, and had been smothered for ten years, burst forth into a flame. This excitement was mainly produced by the measures of the general government. The friends of the administration of Mr. Adams were openly charged with palpable and almost treasonable partiality for the British government, and with attempting by construction to invest the national government with powers not intended to be conferred on them by the constitution, and finally to subvert our free institutions and establish in lieu thereof, if not in name in spirit, a limited monarchical government similar to that of Great Britain. These charges may seem to us at this day, entirely extravagant, and as having originated either from an over heated disordered imagination, or from a design to impose on the less informed part of the community by false representations and unfounded alarms, with a view to accomplish electioneering purposes, and projects of self aggrandizement. But in my judgement, we should do injustice to a large portion of the intelligent and best informed part of the republicans, who led on the attack upon the federal administration, in arriving at such a conclusion. To prove the correctness of this opinion, it will be necessary slightly to glance at the principles and movements of the two great national parties of that day. It cannot be denied but that many of the most intelligent of the federalists, at the time of the adoption of the United States constitution, believed that a pure representative government, as contemplated by that instrument, could

not be sustained by any community on earth. They therefore looked for a change to be produced either by physical force, that is by a revolution, or by gradual and almost insensible innovations, to be effected by those who should administer the government ; and the latter course was, from various and important considerations, to be preferred. I have no doubt that a large majority of those men who thus thought and judged were honest in their opinions. Why should it be otherwise ? A representative democracy was entirely novel. The ancient republics were either real aristocracies or democracies. In the latter case, the people, instead of acting by their representatives, acted in masses. Such were some of the ancient Grecian republics. These communities were, after a short time, always misled by designing demagogues, and soon lost their liberties.

In Rome, the government was partly aristocratic and partly democratic. The democratic branch of the government gradually gained ground and encroached on the aristocratic, until the senate entirely lost its authority and power. The democracy soon became a prey to the ambitious projects of designing and corrupt demagogues. The result was, that the Roman people, who were masters of the world, became themselves the slaves of a single despot. The more recent Italian and Dutch republics, (so called,) were generally, properly speaking, mere oligarchies ; and were so distracted by factions, caused by the ambitious projects of individuals, or created by the corrupt influence of neighboring and more powerful governments, as to afford a feeble protection to the private rights and personal liberty of the citizen, and an extremely unsafe and uncertain guaranty of national independence. The government of nearly all the American states, while colonies, had been partially created by the hereditary executive and royal authority of Great Britain. The little colonies of Connec-



ticut and Rhode-Island furnished the only instances of the existence of civil society, for any considerable period of time, under a representative government, and these were in fact, in their infancy, and always had acted under the tutelage of the mother country. It is an old maxim, "that what has been, will be." Is it then, matter of astonishment, that reflecting men, reading men, and honest men, should have despaired of effecting that in this country, which had never been effected in any age or by any country on this globe? I rather wonder that men were found bold enough to venture on this new experiment, and to disregard these doubts and apprehensions. Thank God, there were such men; among whom Thomas Jefferson, Benjamin Franklin, George Clinton, and Samuel Adams, stand pre-eminent. Thank God, too, that they were sustained by the mass of mind in the United States. The men who were known to have entertained these doubts of the capacity of man for self-government, stood in the front ranks, and were the leaders of the federalism of 1798. General Hamilton had, as we have seen, avowed his principles frankly and fully, in the national convention, in favor of a government which, in effect, would have been a limited monarchy, and, in his letter to Timothy Pickering, (see page 14,) at a later day, he intimates that he yielded to the adoption of the constitution because the prejudices of the people in favor of a republican government were so strong that it seemed necessary to "*try the experiment.*" Even the pure minded and patriotic John Jay in his letter to Gen. Washington, dated March 7, 1787, (1 Jay, 256,) on the subject of the form of government, which in his judgement ought to be adopted by the United States, says, "Shall we have a King? Not in my opinion, while other *experiments remain untried.* Might we not have a governor general limited in his prerogative and duration? Might not congress be divided

into an upper and lower house, the *former appointed for life*, the latter annually. \* \* \* What powers should be granted to the government so constituted ? is a question which deserves much thought. *I think the more the better ; the states retaining only so much as may be necessary for domestic purposes, and all their principal officers, civil and military, being commissioned and removable by the national government.* Let it be remembered that this letter was written to General Washington, the man first in influence in the nation, and that in his answer he expressed no surprise at the propositions made by Mr. Jay.

Is it, then, a matter of surprise that the populace should have been alarmed when the stamp duty, the very measure which had induced them to rebel against Great Britain, was fixed upon them by congress ?

I ought to have mentioned that so late as 1798, leading federalists were in the habit, in their verbal communications, of declaring their convictions that our democratic institutions could not long subsist.

Is it at all surprising that enlightened and highly intelligent men of the republican party, when they perceived that Gen. Hamilton and Gov. Jay were the dispensers of governmental patronage in this state, when they found that that patronage was almost exclusively bestowed on those who declared themselves in favor of a strong and energetic government, as it was called, when the general government had adopted a system of internal taxation which immensely increased its patronage ; when a standing army in time of peace had been raised ; when congress had conferred on the president the power to borrow money, leaving him unlimited in his discretion as to the rate of interest to be paid ; when the same authority had vested the president with arbitrary control over the persons of aliens, and when a law had been passed, rendering it highly penal to speak or write any thing tending to bring odium and con-

tempt on the president or upon his administration, or upon congress, and especially when under this act, they saw a member of congress confined for four months in a dungeon, principally for charging Mr. Adams with living in a sumptuous and princely style ; is it, I say, at all surprising that intelligent and conscientious men should have honestly entertained serious apprehensions, if not a firm belief that those men who had all along declared their opinion that a free representative government could not be sustained, they being the very men who were supposed to hold a controlling influence in the administration of Mr. Adams, intended the subversion of our free institutions, and were taking measures to accomplish that intention ?

While, therefore, I award to the great body, even of the leading federalists of ninety-eight, honest and pure motives, I insist that upright and well informed republicans had good reasons to believe, and did sincerely believe that a gradual subversion of the free principles of the constitution was in progress by those who administered the government. Another circumstance which at this time added unusual bitterness to party controversies was, that unfortunately for the federal party, nearly all the tories of the revolution then living, joined them. This view of the materials of which that party was composed, connected with the sympathy felt by the Americans generally for the French, produced an impression by no means unnatural, that the federalists, as a party were unreasonably attached to the British and desired to renew the connexion in some shape, that formerly existed between the two countries.

It is easy to perceive, that all these causes acting at one and the same time in connexion with the ordinary causes which impel to action political partizans, such as personal rivalships, and the keen appetite for power and place, must have rendered the contest from 1798 to 1800 ardent to a degree of which we can scarcely form an adequate

conception. Soon after Governor Jay had taken the oath of office upon his second election, he issued a proclamation requiring an extraordinary session of the legislature, in the month of August. They met at Albany in pursuance of this proclamation, and Derick Ten Broeck was chosen speaker.

The result of the mission to France of Messrs. Pinckney, Gerry and Marshal became known in this country in the early part of the summer of this year, and the vile attempt made in the French capital under the eye of the government, and evidently by their secret agents to extort money from the American people, as the price of a treaty with the French republic, rendered it almost certain in the view of all well informed men that a war would be the consequence of these disgraceful practices.

The governor, in his speech at the opening of the session, assigned as a cause for the call of the extra session, the alarming indications of a war with France, founded principally on the recent disclosures, and the consequent necessity of immediate preparations for defence, by repairing old and erecting new fortifications, by an efficient organization of the militia, by replenishing our arsenals with arms, and warlike munitions, and by providing funds to defray the expenses of these defensive measures. His speech was almost solely confined to national affairs, and tended to inflame the minds of his auditors against the French, and no doubt was intended by him to produce that effect.

The answers of the two houses were responsive and respectful. They adopted some measures for putting the state in a position of defence, but did not enter into the ordinary business of state legislation.

It will be recollected that a vacancy in the United States senate had been created by the resignation of Judge Hobart, and that Gen. North had been temporarily ap-

pointed to that office during the recess. The legislature therefore proceeded to choose James Watson as the successor of Mr. Hobart. John Tayler, afterwards lieutenant governor, was the democratic candidate. In the assembly, Mr. Watson received fifty-seven votes, and Mr. Tayler forty-eight. This, probably, exhibits the strength of the parties in that house during the extra session in 1798.

This extra session was adjourned until the 2nd day of January, 1799, on which day the legislature met at Albany, and on the 6th of that month, the assembly proceeded to elect a council of appointment, and Wm. Dunning of the southern, Ebenezer Foote of the middle, Ebenezer Clark of the eastern, and John Frey of the western district, were chosen. Mr. Dunning had forty-nine votes, Mr. Foote the same number, Mr. Clark had ninety-two votes, and Mr. Frey ninety-six. The opposition candidates were Mr. Adison and Mr. Haight, who each had forty-seven votes. The eastern and western districts were represented entirely by federal, and the southern by democratic senators. This accounts for the choice of Mr. Dunning, who was a republican.

The legislature of Massachusetts had proposed certain amendments to the United States constitution, increasing the disability of aliens, which were laid before the New-York legislature by Gov. Jay. These amendments were considered as partaking of a party character, and were freely discussed in the assembly, but were rejected by a vote of sixty-two to thirty-eight.

On the 7th of February, Mr. John Swartwout from New-York, introduced into the assembly a resolution for the appointment of a committee who should be directed to bring in a bill dividing the state into districts, for the election by the people, of presidential electors. This resolution was afterwards modified on the motion of Judge Peck,

so as to require the committee to embrace in the same bill, a direction that each state senator should be chosen by single districts, and in that shape the resolution passed, fifty-five to forty. A bill to that effect was accordingly brought into the assembly and passed that house, but was rejected in the senate.

The republican members evidently anticipated that the election in April, 1800, would result in a federal majority in the legislature, and they advocated this measure with a view of securing a part of the electoral college. This project, therefore, among politicians, assumed entirely a party aspect. The choice of a council of appointment, and that of United States senator, had shown a federal majority in the assembly; how, then, was the result last mentioned produced? I am informed by a distinguished gentleman now living, who was then, though young, an active and decided republican member of the assembly, that there were at that time some eight or ten members who had been chosen as federalists, but who began to question the doctrines of their party, who, on all merely personal questions, voted with the federalists, but on questions involving measures and principles, they on most occasions voted on the democratic side; of these gentleman, Obadiah German, Judge Peck, and Mr. McKinstry, of Hudson, were the principal. They were, in the language of the day, denominated *trimmers*, an appellation which the subsequent conduct of most of them, particularly Gen. German and Judge Peck, did not authorize or warrant. In the management of these men, the tact and address of Col. Burr were peculiarly useful. It was, no doubt, owing to his contrivance, that Judge Peck was selected to bring in the electoral resolutions. Judge Peck, although a clear headed sensible man, was an uneducated emigrant from Connecticut. His appearance was diminutive and almost disgusting. In religion he was



fanatical, but in his political views, he was sincere, persevering and bold; and although meek and humble in his demeanor, he was by no means destitute of personal ambition. He was an itinerant surveyor in the county of Otsego, then a new and uncultivated part of the state. He would survey your farm in the day time, exhort and pray in your family at night, and talk on politics the rest part of the time. Perhaps on Sunday, or some evening in the week, he would preach a sermon in your school house. No man knew better the political importance of such a man, in a society organized as the society of the western counties then was, than Col. Burr, and he spared no pains to cause Mr. Peck to be identified with the democratic party. Various anecdotes have been related to me, which exhibit the care which Col. Burr took to shape trifling matters in such a way as to act on the mind of Judge Peck and others, so as to produce the great result at which he aimed. The selection of Judge Peck to offer the electoral resolutions flattered his vanity, it called out upon him the maledictions of leading federalists, and in that way widened the breach between him and his old political friends. Mr. B., it is said, with equal skill and perseverance applied himself to Gen. German, then a plain, but strong minded, and highly popular farmer of Chenango. The support of the democratic cause by these two men, was eventually of great importance to the success of the republican party in April, 1800. I do not think it too much to say, that had it not been for the papers circulated by Judge Peck and Gen. German, and their personal exertion and influence, the western district in the year 1800, would have been federal. Mr. Cheetham therefore, in his pamphlet, which he wrote some years afterwards, professing to present a "view" of Mr. Burr's political conduct, and in his answer to Aristides is wrong in alleging that Col. Burr, while a member of the assembly in

1798-9, did not act efficiently in support of the republican interest. He probably effected more than any other individual.

The celebrated resolutions, drawn by Mr. Madison, of Kentucky and Virginia, denouncing the alien and sedition laws, and other measures of Mr. Adams were, by Gov. Jay communicated to our legislature. When the assembly was in committee of the whole on these resolutions, Mr. King, a federalist, moved a resolution reciting that the right of deciding on the constitutionality of all laws belongs to the judiciary department, that the assumption of that right by the individual states, is unwarrantable, and tends to destroy the independence of the general government, &c.—He therefore, for this extraordinary reason, moved that the committee of the whole be discharged from the further consideration of the subject. At this day the doctrine that members of a state legislature had not, constitutionally, the right to express their opinion on the acts of the general government would be regarded as too absurd to be advocated by a man of sane mind; but although the resolution of Mr. King was ably and strenuously resisted by Mr. Root and others, it was finally adopted by a vote of fifty to forty-three.

In the senate, the same proceedings were had in substance, and Mr. King's resolution, together with the preamble was adopted by a large majority, there being only seven votes against it. These were Adison, Dunning, L'Hommedieu, J. Schenck, SPENCER, Tappan, and Tillotson. De Witt Clinton, who was then a member of the senate, must have been necessarily absent. It will be seen that Judge Spencer, who so lately had been an ardent friend of Gov. Jay, and a most zealous federalist, is now found voting with the republican party. The fact is, he changed sides in the latter part of the session of 1798,

and not long after Mr. Jones was appointed comptroller. It is said he was a candidate for that office. Hence, the federalists charged him with abandoning his party in consequence of disappointment, and from feelings of resentment towards Gov. Jay. The truth of this allegation, Judge Spencer has always denied, and has uniformly treated the accusation as a calumny. His change of principles was known in the spring of 1798, and before his re-election to the senate from the middle district.

When the president of the United States was informed of the treatment by the French directory, of Messrs. Pinckney, Marshal and Gerry, he, in a speech to congress, declared that he never would send another minister to France until he had assurance that an American envoy would be received with the respect due to a great, free and independent nation. But not long afterwards, Mr. Adams having been advised by Mr. Vans Murray, our minister at the Hague, that representations had been made to him by some of the French diplomatic agents, that France was still desirous to treat with America; notwithstanding his former declaration, he (Mr. Adams) nominated to the United States senate, Mr. Vans Murray, as the American envoy to the French court. This step was severely censured by Gen. Hamilton, and many other leading federalists in the nation, some of whom probably really desired a war with France. Mr. Swartwout, however, moved in the assembly, an address of thanks to the president, on account of the appointment of Vans Murray, but the motion was not sustained by a majority in the assembly. The result of this motion, shews the very great influence which the opinions of Gen. Hamilton had on his political friends in the legislature. It seems to me as a question of mere party policy, the federalists on this occasion acted unwisely. They should, themselves, have brought forward the motion made by Mr. Swartwout.

The tendency of it would have been to have increased the confidence of the people in Mr. Adams, the head of the federal party, and in his administration, but what was of still greater importance, it would have diminished the jealousy felt by many honest, upright men, that the federalists from an overweening partiality for Great Britain, were determined on a war with France without regarding the question whether there was or was not a sufficient cause for such war.

Judge Jay, in his biography of the governor, says (1 *Jay* 392) that "during the six years of Gov. Jay's administration, not one individual was dismissed by him from office on account of his politics. So long as an officer discharged his duties with fidelity and ability, he was certain of being continued, and hence his devotion to the public, became identified with his personal interest." It is related that in the council, a member was urging in behalf of a candidate, his zeal and usefulness as a federalist, when he was interrupted by the governor, with "that, sir, is not the question; is he fit for the office?" [See Note O.]

These sentiments and principles of action are truly noble, and in conformity with the pure motives which always governed the conduct of John Jay. But Judge Jay was mistaken in saying that no person was removed on account of his politics, during Gov. Jay's administration. I find on the minutes of the council, that Jacob John Lansing was removed from the office of sheriff of New-York, Dec. 28, 1798, and James Morris was appointed to succeed him; also, that on the 9th of March, 1799, Jedediah Peck was removed from the office of a judge of the common pleas court of Otsego county, without any cause of the removal appearing on the minutes. These are the first cases I have been able to find since the year 1777, of *removals*, unless the cause of the removal was inserted on the minutes. The accusation was in the first place en-

tered, and a copy was served on the party accused. In most cases the incumbent appeared in person before the council, and made his defence. The council then either dismissed the complaint, or removed the officer, as they thought right; but in the case of Mr. Lansing and Judge Peck, no such proceedings were had.

I presume mal-conduct was charged against both those gentlemen, and I cannot believe that at that day the council would have removed the sheriff of New-York, so near the end of his term, without special and good cause, though that cause does not, as it ought, according to former practice, appear on the council books. In the case of Judge Peck, too, no doubt, complaints of misconduct were made against him by such heated politicians as Judge Cooper and his immediate friends; but that Jedediah Peck was guilty of official mal-conduct, I do not believe; and if his removal was attempted to be put on that ground, that circumstance probably added to the unpopularity of the measure. His re-election as a member of the assembly, by a triumphant majority, in less than sixty days after his removal, affords evidence of the judgment his neighbors formed of his conduct. In justice to Gov. Jay, it is proper to add, that according to the practice then existing, a removal from office might be made, against the wishes of the governor, on the motion of any member of the council, although an appointment could not be effected, according to Gov. Jay's construction of the constitution, without his consent, or rather without his nomination.

A bill for the gradual abolition of slavery, passed the assembly during this session, but was lost in the senate.

Before the adjournment of the legislature, Judge Peck introduced into the assembly a bill abolishing imprisonment for all debts arising on contract, express or implied, which, when called up, was rejected without a division. I mention this circumstance as evidence of the great

change which the public mind has undergone since the close of the eighteenth century, in relation to this important question, and as creditable to the benevolent feelings and native sagacity of Jedediah Peck. We shall presently see him, if not the projector, at least the persevering and efficient advocate of another great measure—a measure on the success of which depends the preservation of the freedom and civil institutions of this country; I mean the COMMON SCHOOL SYSTEM. The act for “supplying the city of New-York with pure and wholesome water,” or in other words, the bill chartering the Manhattan Bank, passed a few days before the adjournment of the legislature. The scheme of chartering this company was formed and mainly executed by Col. Burr. The bill was so drawn as to enable Col. Burr and his republican friends to get the control of a majority of the stock, and of course, of the funds of the company. It is an admitted fact, that a large majority of the legislature at the time they granted this charter, did not know that it contained a grant of banking powers. I shall take another occasion to remark on these proceedings, as well as those relating to the incorporation of the New-York State Bank at Albany, in the year 1802, when I come to the time when the Bank of America was chartered. As that event resulted in a new organization of parties, the subject of procuring bank charters will then be fully considered.

The election in April, 1799, terminated more unfavorably to the republicans than had been anticipated. New-York, which for the two preceding years had elected republicans, this year elected federalists by the large majority of about nine hundred. Col. Burr was placed at the head of the republican ticket, and previous to the election, the secret was out, that the charter to the Manhattan company contained a clause that vested them with banking powers. It was alleged, (and truly alleged,) that a very large

majority of the legislature had been cheated, for that while they believed they were simply providing the means of supplying the city with pure and wholesome water, they had created a bank which was to be managed as a great party machine, and which was to minister to the personal and ambitious projects of Col. Burr. A very inflammatory pamphlet was written and generally circulated before the election, presenting in bold relief these and other views to the New-York public. The democratic newspapers of the day, charged the loss of the election in New-York to these efforts, and it is very probable that they had a prodigious and perhaps controlling effect on the result of the election. In Columbia county, too, where the republicans expected success, the federalists elected their ticket ; but, in the eastern and western districts there was considerable republican gain. In Otsego county, Judge Peck was re-elected, notwithstanding the vigorous opposition made against him by Judge Cooper and other active and influential federalists.

In the southern district, in consequence of the large majority in the city of New-York, Messrs. Hatfield and Coles, the two federal candidates, were elected. In the middle district, the republicans were more fortunate and succeeded in electing Isaac Bloom of Dutchess, John Hathorn of Orange, and John Suffer of Rockland. Zina Hitchcock, Ebenezer Russell, and Moses Vail, were re-elected from the eastern, and Moss Kent and Vincent Matthews were elected from the western district. These gentlemen were all federalists. During the summer which succeeded the election of April, 1799, several very vexatious prosecutions were instituted for a breach of the sedition law. Among others, Mr. Charles Holt, printer of the Bee at New London, was prosecuted and imprisoned. A Mr. Baldwin of New-Jersey, was also indicted, tried, convicted, and fined, under color of the sedition law, for

the following offence:—Mr. Adams, on his return from the seat of government, passed through Newark ; some cannon were discharged in compliment to him, while passing through that village ; Mr. Baldwin, who it would appear, was rather a low bred man, said he wished the wadding discharged from the cannon had been lodged in the president's backsides. For this he was fined one hundred dollars. The federalists of New-York, having triumphantly succeeded in the late election, and all branches both of the state and national government being with them, should have endeavored to quiet and soothe the feelings and mitigate the jealousies of their opponents. Buonaparte's maxim was, that the proper time for making overtures of peace was after a victory. It was a wise and sound maxim, and is equally applicable to political parties. Then was the time for the federalists of New-York to have acted with magnanimity and kindness towards those political enemies over whom they had so recently obtained a victory. But their conduct was directly the reverse. They manifested a vindictive and persecuting spirit towards their opponents. I shall mention only one instance. Gen. John Armstrong, though he was not then known as the author, had written with his usual ability and in his usual unequalled style of bitterness and severity, a petition to congress for the repeal of the alien and sedition laws. Copies of this petition were sent into the various counties in the state, ostensibly for the purpose of procuring signatures, but no doubt, really with the view of keeping the odious features of these laws before the people and continuing and increasing the agitation of the public mind. Some copies of these petitions were sent to Judge Peck of Otsego county, and he offered them for signature to his neighbors. For this offence, Judge Cooper wrote to Mr. Harrison, then United States district attorney, insisting that a prosecution, under color of the sedition law, should



be instituted against Mr. Peck. Mr. Harrison was imprudent enough to listen to these complaints, and a grand jury of the district of New-York was empannelled who were weak enough to find a bill of indictment for this alleged offence. A bench warrant was issued and Judge Peck was taken from his family by an officer, to the city of New-York. A hundred missionaries in the cause of democracy, stationed between New-York and Cooperstown, could not have done so much for the republican cause as this journey of Judge Peck, as a prisoner, from Otsego to the capital of the state. It was nothing less than the public exhibition of a suffering martyr for the freedom of speech and the press, and the right of petitioning, to the view of the citizens of the various places through which the marshal travelled with his prisoner. Strange infatuation! But thus it is; parties always have been and always will be hurried into measures which result in their own overthrow, by the indiscreet zeal, or the malignant spirit of personal revenge, of their own friends.

On the 9th day of December, died General George Washington. Independent of the loss which the country in general sustained by the decease of this great and good man, his death was to the federalists as a *party*, at this particular juncture, an irreparable loss. Gen. Washington was known to be a supporter of the administration of Mr. Adams. He had accepted of the command of the provisional army, raised by a recent law of congress, and although that law was peculiarly offensive to the republican party, so great and so universal was the confidence in Gen. Washington, that it was difficult to convince the people that any measure sanctioned by him could be dangerous, or that an administration which received his approbation could be unworthy of their support. But, upon his death, the name of Gen. Washington could no longer be thrown

into the scales in balancing the merits of any future measure which might be adopted by the administration.

The legislature met at Albany on the 28th day of January, 1800. Derick Ten Broeck was re-elected speaker without opposition.

The governor, in the introductory part of his speech, pronounced a short but elegant eulogy on Gen. Washington. In the residue of his remarks he avoided touching on any party questions, and confined himself to the recommendation of several very salutary and judicious amendments of the laws. He concluded by urging further provisions for the support of common schools.

On the 5th February, the assembly elected Samuel Haight from the southern, Robert Sands from the middle, James Gordon from the eastern, and Thomas R. Gold from the western district, members of the council of appointment for the year ensuing.

The legislature, in the early part of this session, reduced the salary of the comptroller from three thousand dollars to two thousand five hundred, whereupon Mr. Jones declined a re-appointment, (the comptroller, by the original law, was appointed annually,) and on the 12th March, John V. Henry, of Albany, since well known as an eminent lawyer, who was then a member of the assembly, was appointed to that office.

On the same day, (12th March,) a debate arose in the assembly on a bill brought in by Judge Peck, to divide the state into districts, and for the choice of presidential electors by the people. This was opposed by the federalists, principally on the ground that it was unconstitutional. The constitution of the United States declares, "That each *state* shall appoint, in such manner as the legislature thereof shall direct, such number of electors," &c. It was contended that the direction that "each *state* shall appoint," implied that the state should act as a body corporate, and

therefore, that the electors could not be appointed by the people. The debate, on the part of the federalists, was principally conducted by Mr. John V. Henry. The speakers on the other side, were Mr. Peck, Mr. Comstock of Saratoga, and Mr. Thomas of Washington. The bill was finally rejected, on the motion of Mr. Shurtleff of Schenectady, by a vote of fifty-five to forty-seven.

Mr. Watson resigned his seat in the senate of the United States, and Gouverneur Morris was chosen in his place, on the 3d day of April. Peter Gansevoort of Albany, was the opposing candidate. In the senate, Mr. Morris received twenty-five votes, and Mr. Gansevoort eleven. In the assembly the vote stood fifty-four to forty-eight.

The legislature adjourned on the 8th April, to the first Tuesday of November.

The result of the election in April, 1800, afforded a complete triumph to the democratic party in the state, and we may add, also, in the nation. This extraordinary success disappointed and surprised both federalists and republicans. The city of New-York, although the year before it had given a federal majority of nine hundred, this year elected republican members. The republicans succeeded in three out of the four senatorial districts, which reduced the federal majority in the senate to seven, while in the assembly that party obtained a majority of twenty-eight. By this means the election of electors in favor of Mr. Jefferson was rendered certain, and his election to the presidency was equally certain. The eastern district was the only district which returned federal senators. From that district, James Gordon and Stephen Fink were chosen; from the southern, Wm. Dunning, Jonathan Purdy and Benja. Hunting; from the middle, David Van Ness, Solomon Sutherland, John C. Hogeboom, Jacobus S. Bruyn and James W. Wilkin and from the western, Robert Rose-

boom and Jedediah Sanger, were elected. Mr. Sanger afterwards acted with the federalists.\* Out of the ten congressional districts, six republicans were chosen.

The democratic success in the western district, which was entirely unexpected, was, I have no doubt, produced by the violent proceedings caused by the over zealous federalists, particularly by the oppressive and tyrannical manner in which the sedition law was executed.

In the city of New-York it is probable that in 1799 many republicans voted the federal ticket in consequence of their dissatisfaction with the manner in which the law granting banking powers to the Manhattan company had been smuggled through the legislature, and for the reason that Col. Burr, who was confessedly the contriver and the agent who effected that extraordinary measure, was then a candidate.) But another very efficient cause of the democratic success in 1800 in that city was, the exceedingly judicious selection of candidates. Col. Burr was not himself a city candidate. This circumstance prevented the Manhattan question from prejudicing the election. Besides the bank was then in operation, and instead of being an object to be dreaded and represented as odious, it then had the power of conferring favors, and was an object to be courted by all those whose situation or business required pecuniary aid. The most consummate prudence and skill were exercised in the selection of candidates. The republican ticket contained thirteen men, whose wealth, and talents and weight of character were probably greater than any other equal number of republicans then to be found in the city, or perhaps any other equal number of citizens. But this was not all. At that time some degree of rivalry existed between the Livingstons, and Clintons, and great jealousy and suspicion were entertained between both the Livingstons and Clintons and Col. Burr. Each had their warm

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and ascertain their views. Mr. Gallatin, in pursuance of this request, wrote to Commodore Nickolson of New-York, and requested him to converse frankly and freely with the gentlemen who had been named as candidates, and to consult other friends and inform him, (Mr. G.,) of the result of his enquiries.

Com. Nickolson soon found that the deafness of Chancellor Livingston presented an insuperable barrier to his nomination. He then called on Gov. Clinton, who, at first, strenuously objected to the nomination, alleging as a reason his advanced age, impaired health, and the situation of his family. Com. Nickolson represented that their political friends might think that the success of the democratic party would be endangered by his declension, upon which, Mr. Clinton said, that if his name should be deemed absolutely necessary to ensure success to the republicans, he would consent to the nomination, on the express condition that he should be at liberty to resign, if he found his health and circumstances rendered retirement from public employment necessary. The friends of Gov. Clinton allege, that upon this, Mr. Nickolson concluded to recommend to the Philadelphia caucus, the selection of Gov. Clinton, and actually wrote a letter to that effect; but that he went from Gov. Clinton's to Col. Burr's, and showed him the letter he had written; that Mr. B. was dissatisfied and after some consultation with him and his friends, Mr. Nickolson erased the name of Mr. Clinton and inserted that of Col. Burr. (*Cheetham's Reply to Aristides*, p. 52 to 57.) What the true version of this transaction was, it is impossible, at this day, to ascertain with certainty. To me, it seems probable, from the spirit of rivalry existing between Gov. Clinton and Col. Burr, from the tenor of Mr. C's. communication to the commodore, and from his subsequent conduct in suffering himself to be a candidate for the office of governor and afterwards that of vice-pre-

sident, he really desired to be a candidate, in preference to Col. Burr. On the other hand, it is probable as Mr. B. had, while in the United States senate, formed an acquaintance and friendship with many of the southern politicians, as he had, at the election in 1797, received thirty of the southern votes for the office of vice-president, and as his friends and agents were very active in his favor, that a majority of the members of congress were really desirous of his nomination, and that Commodore Nickolson was apprised of this fact. In this way I account for his conduct in so readily giving up Gov. Clinton, and recommending Col. Burr.

On the arrival of the commodore's letter at Philadelphia, Col. Burr was nominated for vice-president at a congressional caucus. If Mr. Clinton was dissatisfied with this nomination, or the manner in which it was effected, he had too much discretion to manifest his disapprobation. On the contrary, as a member of the legislature and on all occasions, he supported with good faith the election of Mr. Jefferson and Mr. Burr.

Upon canvassing the presidential votes, it was found that Mr. Jefferson and Mr. Burr had each of them received seventy-three votes. The whole number of votes were one hundred and thirty-eight, leaving for Mr. Adams and Mr. Pinckney sixty-five votes each.\* This result produced a convulsion, which imminently threatened a dissolution of the government. The number of votes given to Mr. Jefferson and Mr. Burr being equal, there was of course, no election by the electors, and the election of president devolved on the states as represented in the house of representatives of the United States. There were then sixteen states. Eight of them were republican, six were federal, and two were equally divided. It was necessary that a majority of the states should cast their votes for one person, in order to effect an election. In this situation of

\* This is an error—Mr. P. received in one of the eastern states two votes less than Adams.



affairs, Mr. Burr was charged with an attempt, by intrigue and management, to cause himself to be elected president, in preference to Mr. Jefferson. It was this charge, "which was the weight that pulled him down" from the pinnacle of power to which he seemed rising, and which, as a politician, prostrated him forever.

It is not my intention to examine or recapitulate in detail the facts urged in support of this charge, or the arguments and facts presented by the friends of Col. Burr in his defence. There are, however, two circumstances about which there can be no doubt, which notwithstanding the letter of Col. Burr to Gen. Smith of Maryland, written before the result of the canvass was known,\* produce in my mind a strong conviction that he did seek the presidency, in opposition to Mr. Jefferson.

In the state of Pennsylvania a majority of the assembly was democratic, but the senate was federal. It was for some time doubtful what would be the political character of the electors of that state, and indeed, whether any electors at all would be chosen; for the senate afforded some indications that they would not meet the assembly for the purpose of going into a joint ballot. The electors, it will be recollected, were then chosen in that state by the legislature. Again, it was uncertain whether the state of South Carolina would elect federal or republican electors, and the electors in that state were not to be chosen until the second day of December, only two days before the votes for president and vice-president were to be given.

It was ascertained that if Pennsylvania elected a full college of republican electors, a republican president would be chosen, whether South Carolina voted for him or not. The electors from New-Jersey had been appointed, and they were federalists. Those who held that Col.

\* In this letter Mr. Burr affects to decline a competition with Mr. Jefferson.

Burr had intrigued for the presidency, alleged that he had agreed with the federal electors of New-Jersey, that in case Pennsylvania should elect republican electors, and thus insure the defeat of Mr. Adams, they should cast their vote for Mr. Burr, leaving off Mr. Jefferson. Mr. Cheetham, in his view of the political conduct of Aaron Burr, published in 1802, (p. 44,) charges, that after the election, Jonathan Dayton, who was speaker of the house of representatives, and a distinguished federal leader in New-Jersey, publicly declared that such was the arrangement and agreement. The celebrated pamphlet of Aristides, written by Judge Wm. P. Van Ness, in answer to Cheetham's "*view*," does not contradict this statement. The subsequent intimacy between Mr. Dayton and Mr. Burr, which resulted in the ruin of the former, goes still further to confirm this statement. The arrangement, if one was made, was not carried into effect, for the two houses of the Pennsylvania legislature finally compromised their differences, and the result was that the republicans had but one majority in the electoral college of that state.

Was this agreement of the New-Jersey federalists to vote for Col. Burr unknown to him? I cannot believe that it was.

The other circumstance to which I shall call the attention of the reader, is, that after the electoral vote was known, and before the action of the house of representatives, in the winter of 1801, Col. Burr went to Albany to attend the legislature as a member, and took with him William P. Van Ness, one of the most shrewd and sagacious men which this state ever produced. He was Mr. B's most confidential friend. Mr. V. N., before the election in the house of representatives, wrote to Edward Livingston, a member of that house, advising him that it "was the sense of the republican party of this state, that after some trials in the house Mr. Jefferson should be given

up for Mr. Burr." This, by the bye, was notoriously untrue. Other letters were written to the same effect. This charge is made in Cheetham's "*view*," &c., which was answered by Mr. Van Ness, as I have before stated, in the pamphlet to which he affixed the signature of Aristides. In that pamphlet he does not deny that he wrote the letter, *and such a letter*, to Mr. Livingston. Can any man doubt that that letter was written with the knowledge and approbation of Col. Burr? Assurances were given by the friends of Mr. B., that after several ballotings the states of New-York, Tennessee, and perhaps New-Jersey, would go for Col. Burr. When the house of representatives commenced the business of president making on the 11th of February, a dreadful scene was opened. Thirty-six ballotings were had. The balloting continued four days and four nights, and finally terminated in the choice of Mr. Jefferson. The friends of Mr. Burr charged Mr. Jefferson with purchasing, by a promise of office, some of those members of congress who, it was supposed, had intended to vote for Mr. B., and in fulfilment of these engagements, it is alleged that Mr. Linn was appointed supervisor of the revenue of New-Jersey, Mr. Livingston district attorney of New-York, Gen. Bailey post-master at the city of New-York, and Mr. Clairborne of Tennessee, governor of the territory of Mississippi.

The conduct of Col. Burr was as impolitic as it was faithless to his party. He remained at Albany during the whole winter. He shrouded himself in mystery. His scheme undoubtedly was, to suffer the federalists and a few republicans to elect him, without appearing himself to take part in the election and without any special commitments. If Mr. Jefferson should be chosen, he supposed by this mysterious course of action, or rather no apparent action, he could still retain his standing with the republican party. If, on the contrary, *he* should be the success-

ful candidate, he imagined that the power and patronage conferred by the office would enable him to sustain himself and to form a party out of the wreck of the two parties, which would constitute a majority in the nation. This course of conduct was weak as well as wicked. There are times when it may be discreet for a politician to temporize; but there are also times when a temporizing policy is the most injudicious policy which can be pursued. The present was, with Col. Burr, a time for action, and not for halting and hesitating. Although, as an honorable member of the republican party, he could not with propriety enter the list against Mr. Jefferson, there was no treason in doing so; and had he done so openly, a large and respectable portion of community would have sustained him. He would, in the then excited state of party feeling, at any rate by taking this course, probably have succeeded; and success in politics, as in war, too generally in public estimation, sanctifies the means by which it is procured. That Col. Burr, if he had pursued this line of conduct, would have received the support of the federalists and would ultimately have been elected, is rendered probable by a letter written by Judge Cooper, then a member of the house of representatives, from this state, to Thomas Morris, on the last day of balloting, in which he says, "Had Burr done any thing for himself, he would long ere this have been president," (2 *Davis*, 116.) Judge Cooper was an uneducated man, but very few *knew men* better than he. Mr. Burr, therefore, in my judgment, ought either frankly and openly to have declared himself a candidate in opposition to Mr. Jefferson, and manifested a readiness to make a common cause with his friends; or he should have repaired in person to the seat of government and requested his friends to support Mr. Jefferson. He should have publicly and unequivocally declared he would not accept of an election made in the way his

election, if effected at all, must have been made, and the latter was, beyond question, the path of duty as well as that of honor. While he was himself vaguely intimating that he did not wish to enter into competition with Mr. Jefferson, his friends were urging republican members of congress to abandon Mr. Jefferson and support Burr. He balanced—he hesitated—he equivocated. In reviewing his conduct on this occasion, one cannot help being reminded of the ludicrous description given by Casca of Cæsar's refusal to accept a crown:—"I saw Mark Anthony offer him a crown, \* \* \* And as I told you, he put it by once, but for all that, to my thinking, he would fain have had it. Then he offered it to him again, then he put it by again; but to my thinking he was very loath to lay his fingers off it."

K.H.C. !  
The high character of Gen. Hamilton, his acknowledged transcendancy of talents and commanding influence with the federalists in this state and nation, render his conduct in relation to the presidential election in 1800, worthy of particular attention.

Immediately after the result of the state election was known, and on the seventh day of May, Gen. Hamilton, with the approbation, as is said, of a caucus of his political friends in New-York, addressed a letter to Gov. Jay, requesting and urging him forthwith to call the then existing legislature together, with a view that before the legislative year expired, (and it will be remembered that under the old constitution it expired on the first of July,) they should pass an act dividing the state into districts for the choice of presidential electors by the people. It was supposed, and the event proved the supposition well founded, that Mr. Jefferson could not get, including the twelve New-York votes, more than 73 votes, and seventy votes were necessary to a choice. If, therefore, four federal votes could be obtained in this state, (and that there

could, if the state was divided into districts, did not admit of any doubt,) the election of Jefferson would be defeated. Mr. Hamilton, in his letter, uses this extraordinary language, "You, sir, know in a great degree the anti-federal party, but I fear you do not know them as well as I do. 'Tis a composition indeed of very incongruous materials, but *all tending to mischief*; some of them to the overthrow of the government by stripping it of its due energies," [Jeffersonians;] "others of them," [Burr,] a revolution after the manner of Buonaparte. "I speak from indubitable facts, not from conjecture and inferences." How Gen. Hamilton could feel authorized to make these bold, and as all will now admit, unwarrantable assertions, to such a man as Gov. Jay, it is difficult to conceive. He concluded by urging the governor to make the call as the *only remaining means* of saving the nation.

At the time Mr. Hamilton made this recommendation to Gov. Jay, he must have known that a proposition involving this very scheme, had been made in the assembly by Mr. Swartwout and Judge Peck a few months before, and in that body had been rejected by the united votes of *the federalists*. He must have known that that able lawyer, and honest and honorable man, JOHN V. HENRY, had opposed it mainly on the ground that it was unconstitutional. Had the constitution changed, or was Mr. Henry and the whole federal party in the assembly to change at the bidding of Gen. Hamilton? John Jay, the pure, the honest, the patriotic John Jay, who at that moment was as zealous a federalist as the United States contained, to his immortal honor, refused to yield to this pressing solicitation. On the back of that letter will now be found the following endorsement. "*Proposing a measure for party purposes, which I think it would not become me to adopt.*" In the history of man, amidst his follies, his vices, and his crimes, there are now and then green spots

on which the mind delights to dwell, and this is one of them. This demonstration of virtue and high integrity, ought to embalm the memory of John Jay in the heart of every honest man and true patriot. It brings to one's mind the so much admired decision of the people of Athens, on the proposition made to them by Themistocles through Aristides. The letter of Gen. Hamilton may be seen in 1 Jay, 412—The general's name is not printed at the foot of it, but it is, I believe, universally admitted that he wrote and subscribed it.

There is something singular, and to my mind mysterious, in the character of Gen. Hamilton. That he was a very great man—perhaps *the greatest man* on the score of talents, who flourished during the revolution, I believe. The testimony of good judges now living, who knew him well, and the writings which he has left behind him, particularly the Federalist, together with his official reports as secretary of the treasury, sustain me in this opinion; and that he honestly believed the measures which he advocated were the measures best calculated to advance the prosperity of the country; and also, that he honestly, frankly, and fearlessly declared his opinions on all proper occasions, both publicly, and privately, I have no manner of doubt. But there were many things in his conduct towards *men*, which we shall find it difficult to approve; and in some of his political movements his actions seem to have been inconsistent with that good faith which a member, and especially a leader of a political party owes to the friends with whom he is associated. Upon a close analysis of his conduct, his errors, I think, will be found to have originated from having formed too low an estimate of the intelligence and patriotism of the mass of community, and to an immoderate and most intense personal ambition.

He was always opposed to Gov. Clinton, but his oppo-

sition to him was founded on a radical difference in opinion, respecting what ought to be the principles and the policy of the government. That opposition was open and frank, and always conducted honorably. Of Col. Burr, he was the professional rival, (though vastly his superior,) and he was unwaveringly politically opposed to him; although Col. Burr at times supported the party to which Gen. Hamilton was attached, the hostility of the latter to the former, seems never for one moment to have undergone the least mitigation. There were good reasons why he should have been politically opposed to Gov. Clinton; and there were also, equally good reasons why he should have been opposed to Burr, probably as well personally as politically;—but he was also unfriendly, and for a long period was opposed to Mr. John Adams. Why should he have been hostile to Mr. Adams? Both he and Mr. Adams were pursuing the same object, the support of the federal cause in the Union. Adams could not, had he been disposed to do so, cross the track or thwart the views of Gen. Hamilton in the state of New-York. Why then, should the latter have been the early, the constant, and finally, the vindictive opponent of the former? Did Hamilton believe that the northern section of the union could not sustain *two* great men?

On the 22d October, 1800, a few days before the presidential electors were to be chosen in every state in the nation, Gen. Hamilton published a pamphlet, in the form of a letter, “on the public conduct and character of John Adams.” It contained a virulent attack upon him, personally as well as politically; it is said, and indeed it is intimated by Gen. Hamilton, that he did not intend this for the public eye; that he caused it to be printed for the purpose of more conveniently sending it to his confidential friends. This circumstance, if the attack was unjustifiable, rendered the act more culpable. To attempt to rob



a man of the esteem and confidence of his friends by secret communications, against which he cannot defend himself, because he does not know of their existence, is more unjust, more cruel than to attack him openly. This I can not believe that Mr. Hamilton intended, as it is inconsistent with the general tenor of his conduct. It is however, certain, that parts of the letter were made public, contrary to the wishes of Mr. H., or sooner than he desired. If the following anecdote be founded upon fact, it accounts for the premature publication of this document. It is said that Hamilton ordered it to be privately printed and the copies all sent to him; that the printer after excusing the work early in the morning, sent the pamphlets by a boy to Gen. Hamilton; that Burr, who was an early riser, happening that morning to be walking in the streets near the house of Hamilton, met the boy with a covered basket on his arm, coming from the printing office, and travelling in the direction of the residence of Hamilton, and casually asked the lad what he had in his basket? He said "pamphlets for Gen. Hamilton;" not knowing that they were of the least importance. Burr then persuaded the boy to let him have one of them, and forthwith caused extracts from it to be published and widely circulated. I can not vouch for the truth of this story; I have it, however, from a gentleman of high standing, who himself believed it. Mr. Davis, (2 life of Burr, 65,) gives a different account of the means by which the letter of Gen. H. was first made public.

Gen. Hamilton commences this letter by affirming that Mr. Adams had great and intrinsic defects in his character, which rendered him unfit for the office of chief magistrate, and that his talents were not adapted to the administration of the government. Mr. H. says in page seven of his letter, that Mr. Adams "is a man of an imagination sublimated and eccentric, propitious neither to the regular

display of a sound judgment, nor to steady perseverance in a systematic plan of conduct; and to this defect is added the unfortunate foible of a vanity without bounds, and a jealousy capable of discolored every object." For proof of this he relates several anecdotes of Mr. Adams, some of them referring to occurrences in France. To show the propensity of Mr. Adams to be jealous of his friends, Mr. H., after stating that it was agreed among the federalists in 1796, when the presidential office became vacant by the declension of Gen. Washington, that Mr. Adams and Mr. Pinckney should be equally supported, leaving it to casual accession of votes in favor of the one or the other of them to turn the scale between them, says, "it is true that a faithful execution of this plan would have given Mr. Pinckney a better chance than Mr. Adams, *nor shall it be concealed that an issue favorable to the former would not have been disagreeable to me.* \* \* \* My position was, that if *chance* should decide in favor of Mr. Pinckney it probably would not be a misfortune, since he, to every essential qualification for the office, added a temper far more discreet and conciliatory than that of Mr. Adams." (*Letter p. 11, 12.*) Now let us, for one moment, look at this project, and first, let me remark that the public proceedings and papers of that day, (1796,) show as clearly that Mr. Adams was the candidate of the federal party for president, as that Mr. Jefferson was the candidate for that office, in 1800, of the republican party. Probably not one out of a thousand of the federalists, dreamed of Mr. Pinckney for president. This General H. must have known. He knew, too, that the southern states generally would vote for Mr. Jefferson. Is it not probable that he knew, (certainly he had good reason to believe,) that South-Carolina would do what she actually did do, give eight votes to Mr. Jefferson and eight to their own favorite citizen, Pinckney? If then, the plan of

Gen. H. had been carried out and the northern federal states had given an equal number of votes to Mr. Adams and Mr. Pinckney, Gen. H. must have known Pinckney would have been elected president contrary to the expectations and wishes of ninety-nine hundredths of the federalists. Would this have been fair? Would it have been honorable?

Mr. Hamilton complains that Mr. Adams spoke unkindly of him, and was jealous of him. Is it matter of surprise that Mr. Adams should have so spoken and felt? He and his friends must have discovered the plot. The votes given for Ellsworth and Jay in the New-England states prove this, (*see p. 102.*) These yankees discovering that a trick was about to be played upon them, were very quiet, but eventually played a yankee trick upon the plotters. Mr. Hamilton says "Mr. Adams never could forgive those engaged in this plan;" but for my part I cannot deem him blamable for remembering and distrusting those who formed and attempted to execute it.

Gen. Hamilton then animadverts with great severity on many of the measures of Mr. Adams, and pronounces his conduct as president to be "a heterogenous mass of right and wrong." Gen. Hamilton, towards the close, says, he "does not advise the withholding from Mr. Adams a single vote, but he claims an *equal* support of Mr. Pinckney with Mr. Adams," (*p. 51.*) He says he intends the circulation of that letter to be confined to narrow limits. Now, did not Gen. H. know that, in this country, you might as well attempt to confine the light of the sun, as the matter contained in a printed sheet, when once given to the public?

Again, did not that sagacious politician know that to impair the confidence of the public, or any considerable portion of the federal party, in Mr. Adams, at that particular juncture, would be fatal to the federal cause in

America, and would render certain the event he so much deprecated in his letter to Mr. Jay—the election of Mr. Jefferson. Why, then, should he have written and published this letter? Why, in 1796, did he deliberately concoct a scheme, which, had it been successful, must have thrown the federal party into utter confusion, and thwarted the ardent and anxious wishes of an immense majority of his political friends? Did he suppose that the election of a southern president, even if he was a mischievous democrat, would hasten the elevation to the first office in the nation of the great northern financier?\*

The friends of Col. Burr charged Gen. Hamilton with inducing Mr. David A. Ogden to call on Col. Burr, previous to the election by the house of representatives, ostensibly with a view to ascertain what would be his course of conduct towards the federalists, if elected president; but really for the purpose of destroying his standing with the republican party by drawing him out on that subject. This however, appears not to be correct, from the statement made by Mr. Ogden, in the *Morning Chronicle*, in the year 1802. Indeed, if Mr. O. had not made this statement, no man would have believed that Gen. Hamilton could have descended to such trickery. He was entirely incapable of anything like meanness. It is however,

\* It would seem that as commander-in-chief of the army of the United States, Gen. Hamilton made, in the summer of 1800, a tour through some of the New-England states. A writer in the *Boston Independent Chronicle*, who claims to be a friend of John Adams, over the signature of Manlius, charges that the General's visit was political, having for its object the prostration of Mr. Adams. On that tour Gen. Hamilton is charged with predicting among his friends—and the names of Messrs. Pinckney, Ames, and Cabot, are mentioned as some of them—that "If Mr. Pinckney was not elected president a revolution would be the consequence; and that within the next four years he," (Hamilton,) "should lose his head or be the leader of a triumphant army."

I have been unable to find a contradiction of this story in the federal papers published during that year; but the style of conversation is so unlike that which was generally adopted by Gen. Hamilton, I cannot credit it.

The communication of Manlius will be found in the *Albany Register* of August 13, 1800

certain, that as between Mr. Jefferson and Mr. Burr, Gen. Hamilton was in favor of Mr. Jefferson, and so advised his friends in congress. He considered Jefferson the least dangerous man of the two.

On the first Tuesday of November the new legislature convened, and Samuel Osgood of New-York, was chosen speaker.

The governor, in his speech, alluded to the appointment of presidential electors as the cause of that early session, and intimated that danger might arise from allowing too much excitement to prevail at times when the chief magistrate of the nation was to be chosen. He therefore recommended the suppression of all inflammatory feeling. The residue of his address was confined to local objects proper for state legislation. He recommended the passage of an act for the call of a convention for the sole purpose of restricting the number of senators and members of the assembly.

The two houses immediately proceeded to choose electors for president and vice-president. The senate nominated federal electors and the assembly republican. Upon a joint ballot the following persons, all republicans, were declared duly elected—Isaac Ledyard of Queens, Anthony Lispenard of New-York, Pierre Van Cortland, jun. of Westchester, James Burt of Orange, Gilbert Livingston of Dutchess, Thomas Jenkins and Peter Van Ness of Columbia, Robert Ellis of Saratoga, John Woodworth of Rensselaer, Jeremiah Van Rensselaer of Albany, Jacob Acker of Montgomery, and William Floyd of Suffolk.

In the senate the federal electoral ticket received twenty-four votes, and the republican eighteen. In the assembly the republican ticket received sixty-four votes, and the federal thirty-nine. On joint ballot the republican candidates for electors were chosen by twenty-two majority.

On the 7th November a resolution was offered in the

assembly, to elect a council of appointment. This resolution was opposed by the federalists, on the ground that the council then in existence had not been in office for a year from the time of their appointment. The same question, it will be recollected, arose in 1794. The only difference was, the parties had reversed their position. The federalists now held the same doctrine and urged the same arguments that the republicans did then; and the republicans now adopted the arguments of the federalists in 1794. Such is the consistency of partizans !

The resolution was adopted, and De Witt Clinton, Ambrose Spencer, Robert Roseboom, and John Sanders, were elected members of the council of appointment for the ensuing year. All were republicans except Mr. Sanders. It may however, be proper to mention, that the old council continued to act, notwithstanding the choice of the new, until the expiration of a year from the time they were chosen ; for I find them in session on the 23d January, 1801, when Solomon Van Rensselaer was appointed adjutant general, in lieu of Col. Van Horne, whose illness rendered him incapable of performing the duties of the office. And here I cannot help remarking, that when this question was agitated in 1794, the assertion by the republicans, that the old council would have a *right* to act until the end of the year, was treated by the federalists as preposterous, and as an attempt at a dangerous and unconstitutional usurpation of power. In that case the old council did not insist upon their right to continue in office, and the new council forthwith proceeded to appoint a judge of the supreme court, (Judge Benson;) this appointment being in truth the cause of the collision which then occurred.

On the 6th November, John Armstrong was, by almost an unanimous vote, elected to the senate of the United States, in place of John Lawrence, who had resigned.

Gen. Armstrong was connected by marriage with the Livingston family. As a man eminent for talents, and especially as one of the most powerful political writers in America, and as a national politician, he is well known; but it does not appear that either at that or any other time he was apparently very active in the management of the political concerns of this state. I am unacquainted with the causes which, at this period of high political excitement, procured him an almost unanimous nomination from the senate of this state, which we have seen was decidedly federal. It may be that the federalists in the senate, knowing that they could not succeed in the choice of one of their political friends, in consequence of the republican majority in joint ballot, yielded to the appointment of General Armstrong as the least exceptionable republican candidate for that office. Gen. Armstrong had been a federalist, and continued such till about the year 1797 or 1798.

The answers of the two houses to the governor's speech, were respectful. That from the senate was a mere echo, but the answer of the assembly was interlarded with innuendoes of a party character.

The legislature, on the 8th Nov., adjourned to the last Tuesday in January.

Before the members separated, and on the evening of the 8th, the republicans nominated George Clinton to be supported at the next gubernatorial election, and at a subsequent meeting of citizens Jeremiah Van Rensselaer was nominated lieutenant governor. At the caucus which nominated Mr. Clinton, Henry Rutgers was chairman, and Smith Thompson was secretary.

On the same day the federal members held a meeting and addressed Gov. Jay, highly approving of his official conduct, and requesting him to stand a candidate for a reelection. By a written answer the governor thanked

them cordially for the approbation they had expressed of his conduct, and for the evidence their address afforded of continued confidence, but positively declined being again a candidate, declaring that he had years before determined that at this period of his life he would retire from all public employment. He afterwards repeated the same declarations to a meeting of New-York freeholders, (*see 1 Jay.*) His communications in both cases were affectionate and patriotic, and in accordance with the purity and excellence of his private and public character. He kept his resolution most firmly and religiously. It is said that after he went into retirement he would not even read the political newspapers of the day. This great and good man may have occasionally erred in judgment, but for purity of motive and character no man ever lived who exceeded him. In saying that he may have erred in judgment, I do not mean that he was not a man of great powers of mind and highly capable of judging. John Jay was beyond question not only one of the purest, but one of the ablest of the revolutionary statesmen and patriots. *Not D.*

The federalists afterwards nominated Stephen Van Rensselaer for governor and James Watson for lieutenant governor.

On the 11th of February the new council met the governor for the first time, and the war between them and the governor was forthwith commenced. Gov. Jay nominated Jesse Thompson for sheriff of the county of Dutchess; which nomination was non-concurred in by a majority of the council. He then proceeded to nominate seven others for the same office, who were successively rejected by the council. He made some other nominations which were approved by the council. The council then adjourned to the 18th of the same month, when Robert Williams, afterwards celebrated in the party annals of the state, was appointed sheriff of Dutchess. Williams was a republican.



On the 24th the council again met, when an unsuccessful attempt was made to appoint a sheriff of the county of Schoharie, and also of the county of Orange. The governor nominated Benjamin Jackson as sheriff of Orange, who was negatived. He then nominated several other persons with the same result. Mr. Clinton thereupon nominated John Blake, jun. The governor, instead of putting the question, nominated John Nickolson. On this nomination the majority of the council refused to vote. The parties were in this predicament, the governor insisting on the exclusive right of nomination, and the council on a concurrent right; the governor refusing to put the question upon any nomination made by a member of the council, and the council refusing to vote on the nominations made by the governor. Upon these issues being formed, Mr. Jay stated to the council that he desired time for consideration before he determined on the course which he should pursue; and thereupon the council adjourned. Gov. Jay never convened them again. It is not improbable that Mr. Clinton and Judge Spencer were rather desirous to produce a breach, and so great a breach as to prevent the future action of the council with Gov. Jay as its president. While he occupied that station, it was impossible for them to bestow the patronage of the state in all respects as they desired, and they had good reason to believe that the election in April would result in the choice of a governor who accorded with them in political views. On the 26th February, Gov. Jay sent a message to the assembly setting forth his difficulties with the majority of the council and the causes of those difficulties. He reminded them that in his first speech after his election he had besought the legislature to pass an act declaratory of the powers of the governor while acting as president of the council; that the legislature had neglected to act upon that recommendation; that in the absence of all le-

gislative direction he was bound to act according to his own views of the true construction of the twenty-third article of the constitution; that he conscientiously believed that the constitution vested in the governor the exclusive right of nomination; and this being his sincere and honest opinion, he should violate his oath were he to yield the right to the council. He was not surprised, he said, that the council should claim a concurrent right of nomination, because that claim had been before made, and because intelligent men might differ as to the propriety of that claim; but he complained of the council for refusing to vote on his nominations. This course of conduct, if carried out, might result in establishing a claim of exclusive nomination by the senators who were members of the council. He concluded by asking the directions of the legislature. The assembly, however, resolved that it was a constitutional question to be decided not by them, but by the governor and council. The governor also addressed the chancellor and judges of the supreme court, and requested their opinion, which they unanimously declined giving, on the ground, that the expression of an opinion by them was not within the scope of their official duties, but entirely extrajudicial.

On the 17th March, Messrs. Clinton, Spencer and Roseboom made a written communication to the assembly in which they give their version of the transactions of the governor and the council, which does not materially differ from that given by Gov. Jay. They say they have only in one instance claimed the right of nomination, (the case of Mr. Blake,) but they insist they have such right, and they go into a long train of reasoning to support that position. They say the right has never been yielded by the council, (although it will be remembered Gov. Clinton protested against it;) on the contrary, they refer to its exercise under Gov. Clinton in the case of Judge Benson.

This communication is written with some degree of asperity, and alludes to the character and conduct of Mr. Jay in a spirit of decided hostility.

Upon looking back to the proceedings of the senate in 1796, it is impossible to avoid some surprise and regret to find Judge Spencer, not satisfied with a declaration on the part of the senate that the previous official conduct of Gov. Jay inspired the members of that house with confidence that his administration would be in every respect beneficial to their constituents, but insisting that the senate should declare that Mr. Jay's whole official life had "*invariably*" afforded evidence of integrity, patriotism and wisdom; which, in effect, amounted to a solemn affirmation that under all circumstances and on all occasions it had been precisely what it ought to have been, and invariably free from error; thus ascribing to him a perfection incompatible with human nature, and then to find, after the lapse of so short a period of time, the name of the same Judge Spencer subscribed to this communication—a communication which contains intrinsic evidence of having been partly, if not wholly, written by himself.

Very few occurrences of much interest took place in either house of the legislature during the remainder of this session. On the 6th of March, Judge Peck reported a bill for the regulation of common schools. What the particular provisions of that bill were, I do not know, for it seems it was not passed into a law. A bill however was passed before the legislature adjourned, directing raising, by means of four successive lotteries, of the sum of one hundred thousand dollars, twelve thousand of which were to be paid to the regents of the university, to be by them distributed among the academies in such manner as they should deem most proper, and the residue, eighty-seven thousand and five hundred dollars, was to be paid into the treasury, to be appropriated

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tion which related to the members of the senate and assembly, and to determine the true construction of the twenty-third article of the constitution. The act further provided that the delegates should be equal in number from the respective counties to the members of the assembly; that they should be chosen in the month of August then next, by all freemen over twenty-one years of age; that the delegates thus elected should meet at Albany on the second Tuesday in October; that the determination of the convention respecting the matters therein *before mentioned* should be entered of record and should thereupon be considered as a part of the constitution of this state.

It can scarcely be necessary to add that on the 17th of February Mr. Jefferson was, by the states in congress, elected president, or to speak of the manner of that election. The history of that fearful contest, which from day to day threatened a dissolution of the government, is well known. The news of the result was received by the republicans in every part of the nation with acclamations of joy, but perhaps, nowhere with more heartfelt exultation than in the state of New-York. On the 4th of March, meetings were held, processions were formed, and orations were delivered in almost every city and village in the state. The republican members of the legislature and the citizens of Albany, and citizens from other parts of the state, joined in the general festivity. A splendid dinner was provided and toasts were drank. I allude to the proceedings of this meeting to show that at that time, whatever views individuals may have entertained of the recent conduct of Col. Burr, the republican party generally had confidence in him, and that he stood high in their esteem. The Albany Register, then the organ of the republican party in the state, in reference to this celebration, says:—  
"In rejoicing on this occasion they, [the company,] did

not forget the important success of the republicans in the choice of that *firm and tried patriot* Aaron Burr as vice-president of the United States."

Among the regular toasts drank, the next after the toast to Mr. Jefferson, was—

"*Aaron Burr, Vice-President of the United States—*His uniform and patriotic exertions in favor of republicanism eclipsed only by his late disinterested conduct."

Mr. De Witt Clinton was present, and gave the following volunteer—

"*Our republican brethren of the south—*May we always be united with them in the elevation of patriots and the promotion of good principles."

Could any one imagine that the bitter waters of strife were so soon to succeed the copious drafts from the flowing bowl, which then circulated with such apparent cordial conviviality? Man is mutable—politicians are most mutable!

The electioneering campaign between Gov. Clinton and Gen. Van Rensselaer was opened and prosecuted with great spirit and vigor. It gives me pleasure on this occasion, to notice one circumstance highly honorable to Mr. Van Rensselaer, but which, indeed, is in perfect keeping with the character and conduct of that good man.

It had, it seems, been given out, probably by some of his over zealous friends, that those of his tenantry who were in arrears in the payment of their rent, (and there were probably thousands who were so,) if they refused to vote for him would be prosecuted for those arrears. Upon this report coming to the ears of the patroon he forthwith published, in all the papers printed in Albany and Rensselaer counties, that the report was wholly untrue. He assured his tenants that he wished them to vote as in their judgment their duty to the country required, and that no man should be prosecuted who voted against him.

After such a noble and magnanimous declaration, I am not at all surprised that in the county of Albany the patrol received two thousand one hundred and thirty-eight votes, while Gov. Clinton received but seven hundred and fifty-five. This vote was equally honorable to those who gave as to him who received it. The general result of the election however, in the state, was in favor of the republican party. Gov. Clinton was chosen by more than four thousand majority, and a majority of republicans were elected members of the assembly.

We have thus seen a great party, which had for twelve years been in the ascendancy in the nation, and the greater part of that time had controlled the political destinies of the state of New-York; a party which claimed for its head and leader one of the greatest and best men who ever existed in any age or country—the immortal Washington; a party which contained in its ranks a majority of the eminent sages and patriots of the revolution, and an host of men possessing talents of the highest order, and justly distinguished for their public and private virtue, prostrated by the fiat of the people of this state and of the United States, expressed through the polls of election. I should assume too much, were I to attempt to speculate on the causes which produced this great civil revolution. I may, however, be permitted to mention one leading error, which in my opinion, was embraced by the prominent federalists, and which gradually extended itself among their ranks. They did not properly appreciate the intelligence and good sense of the mass of the community. They considered them as incapable of judging what was for their best good. It is said General Hamilton, in addressing a mass meeting in New-York, told the people that *they* themselves were their own worst enemies. It was not discreet to make such a declaration had it been true; but, in my judgment, it is not true. Although there are many

among us who are incapable of judging of the merits of great political measures, yet in every community, in every neighborhood, and I may add, among every twelve men, promiscuously gathered, in the most benighted corners of the state, you will find some men of good sound common sense, very capable of weighing and deciding upon questions upon which they are required to decide and act. It was this unjust estimate of the intelligence and virtue of the mass of the people, which induced the federalists to sigh for a more energetic government, and which carried them into a course of reasoning and action which resulted in the utter overthrow of that great, talented and powerful party.



## CHAPTER VI.

FROM MAY 1, 1801, TO MAY 1, 1802.

IN the southern district E. L'Hommedieu was this year re-elected to the senate; from the middle James G. Graham, Jacobus S. Bruyn and Peter A. Van Bergen; from the eastern John Tayler, Christopher Hutton, Abraham Van Vechten, Ebenezer Clark and James Van Schoonhoven, the two first named being republicans and the three last federalists, and from the western district Lemuel Chipman, John Myers and Isaac Foote, all federalists, were elected. Thus, it will be seen, there were six republicans and six federalists elected. It will be recollected that in April, 1800, there was a democratic majority in the western district. As the democratic party from April, 1800, to 1801, was generally on the gain, it is probable the success of the federal party in the western district was owing to some local causes with which we are at present unacquainted. Perhaps the republican candidates, or some of them, were personally unpopular. In the assembly a large majority of republicans were elected.

On the last Tuesday in August, and the two succeeding days, the members for a convention to amend the constitution were chosen, in pursuance of the act passed in April preceding, of which I have already spoken. The election resulted in the choice of a great majority of republicans. Indeed, from the tone of the political press of that day, it does not appear that the federalists, as a party, made any considerable efforts.

John V. Henry, a principal and leading federalist, was elected from Albany county. De Witt Clinton was chosen by the electors of the county of Kings; Aaron Burr,

though he, as well as Mr. Clinton, resided in New-York, was elected a member of the convention from the county of Orange; William P. Van Ness, of whom we have previously spoken as the confidential friend of Col. Burr, was elected from New-York, and Smith Thompson, at present an associate judge of the United States supreme court, was elected from the county of Dutchess. DANIEL D. TOMPKINS, who afterwards made so distinguished a figure in the political controversies of the state, made his first appearance in public life as a member of this convention from the city of New-York.

✓ The convention met on the 13th of October at Albany, and organized by unanimously electing Col. Burr president.

It must not be forgotten that the convention was restricted to the determination of two questions only. The first was, to fix a limit to the number of senators and members of assembly, and the other question which they were authorised to decide was that relating to "the true construction of the twenty-third article of the constitution." They soon agreed as to the limitation of the number of the members of the two houses of the legislature. De Witt Clinton proposed the plan which was adopted. In fact there seems not to have been much difficulty in settling the question of the right of nomination to office by the members of the appointing power; for on the question of adopting the clause on that subject, there were but fourteen members who voted in the negative. This unanimity seems to me somewhat extraordinary. Had the question been an original one, that is, whether it was most discreet and wise that the members of the council of appointment should possess a concurrent right with the governor to nominate all officers, or whether the right of nomination should be exclusively vested in the governor, there would not be much cause of surprise that party

men, although engaged in amending or making a constitution, should have unanimously supported the doctrines of their party. But the power of deciding upon the expediency or propriety of exclusive or concurrent nomination was not, by the act to which the convention owed their existence, committed to them. They were merely authorized to declare "the true construction of the twenty-third article of the constitution," but not to alter the terms of that article, or abolish and make a new one in lieu of it. The act recommending a convention, under which they had been elected and were then sitting, vested them with judicial powers only. They were merely authorized to expound and declare the true intent and meaning of the convention of 1777, when they adopted the twenty-third article. Perhaps the true cause of the apparent unanimity of opinion on this occasion, was, that both the federal and republican parties had in their conflicts with each other, committed themselves in favor of the construction that the members of the council possessed a concurrent right of nomination with the governor—the federalists in 1794, when Judge Benson was appointed, and the republicans in the winter of 1801.

From the meagre reports of the proceedings of the convention it appears that Mr. John V. Henry was the only man who made an argument in favor of the exclusive right of the governor to nominate. De Witt Clinton, who took the other side of the question and voted with the majority, lived long enough to have reason from his own experience bitterly to deplore that the convention had not adopted the construction given to the article by his venerable uncle, George Clinton, and by the learned, judicious and conscientious John Jay. Here then, is another proof that legislators, and especially constitution-makers, in passing general laws and establishing general rules, should never act from party considerations. William P. Van Ness was

one of the fourteen who voted against this construction of the constitution, and Daniel D. Tompkins was another. Precisely twenty years afterwards, in the convention of 1821, Gov. Tompkins referred to his conduct on this occasion with self-satisfaction and just cause of triumph. He said, [*Debates in the Convention*, p. 116,] "The convention of 1801 was assembled to sanction a violent construction of the constitution. Then, the maxim was, to strip the governor of as much power as possible. Now, gentlemen are for giving him more power. In the convention of 1801 he was opposed to retrenching the power of the executive. To him it was a proud triumph, that at the age of twenty-six, he stood alone against the then dominant party; and he believed that there were members who would now be proud if it could be said that they had taken the same ground."

Gov. Tompkins was mistaken in saying that he was the only republican who took this course. William P. Van Ness was with him, a circumstance which he had no doubt forgotten. Ought not this incident in the life of Tompkins to admonish young politicians to act according to the dictates of their own consciences, without regard to the popular breeze which at the moment may happen to agitate the political atmosphere?

The reader will recollect that the rupture between Gov. Jay and his council took place on the 24th of February, 1801, and that, although he continued in office until July following, he never again called the council together. He will also bear in mind that the council, consisting of De Witt Clinton, Ambrose Spencer, John Sanders and Robert Roseboom, continued in office till the winter of 1802. On the 8th of August, 1801, Gov. Clinton invited a meeting of the council.

The proceedings of this council, after Mr. Clinton was

inducted into office, were, at the time, the subject of much complaint and severe animadversion.

It has often been remarked by citizens and politicians of our sister states, that the action of political parties in the state of New-York was to them unaccountable and mysterious. They saw men elevated to distinguished stations many times, without any apparent cause of such elevation ; they saw others assailed and denounced, and they witnessed the total prostration of men high in office, and proscribed even by the party professing to support the same measures and holding the same political principles as those who were thus cast out of the political church, without even an attempt to charge the proscribed individuals with either a want of talent, of official misconduct, of immorality, or of heresy in their political principles. Hence, hundreds of strangers have said to me that the politics of New-York were to them a perfect enigma. The cause of this mysterious development of the action of parties will, I think, be in a great measure found in the manner in which the appointing power executed its functions, after the alteration of the constitution by the convention of 1801.

In Vermont, and in several other of the United States, nearly all the appointments are made by the most numerous branch of the legislature, and in other states they are made by the governor and senate. In cases where so many men are required to pass upon the fitness of an appointment, it is difficult, and generally speaking, impossible to distribute the state patronage for the purpose of advancing the interest or influence of any individual, or any particular clique of individuals. Some of the many persons who hold the appointing power, will discover the object of the prime movers and expose and denounce them. Exposure forthwith puts an end to the successful prosecution of individual ambitious projects, whose success depends

on the bestowment of state patronage. In states where the governor possesses the sole power of nominating or appointing to office, he, feeling his responsibility to, and his dependence upon the whole people, dare not, in general, prostitute his power to the promotion of individual interests and views. These checks could not be brought effectually to bear on the members of the council of appointment. They were commonly men who, like Mr. Clinton and Mr. Spencer, were about to retire from the legislature and who cherished high and ambitious projects; or, like Mr. Robert Roseboom, honest and unpretending, but who were suddenly raised from a mediocrity of standing in life, and in the legislature, to the possession of great power. This last sort of men, for the space of one year, were followed, caressed and flattered; but, on the expiration of that year, when they ceased to be members of the council, they instantly fell back to the position in society and in the public eye, which they formerly occupied. They remind one of the transitions produced by the power of magic, as detailed by the author of the Arabian Night's tales. Like the player who, while clothed with royal habiliments and enacting Julius Cæsar or Richard the Third, excites your admiration and perhaps your veneration and awe, yet, the moment the curtain drops, he is transformed to a street stroller, about whom, individually, you think little and care less. It is evident that neither of these classes of men, while members of the council of appointment, could feel that high sense of responsibility to the people which the genius of our government demands from officers possessing such important delegated powers. Besides, it was often difficult to ascertain who ought to be charged with the sin of an improper appointment. The ayes and noes are not entered on the minutes of the council unless expressly directed by the dissenting councillors. An incompetent and dishonest man was appointed a justice of the

peace in your neighborhood. A. B. C. and D. are members of the council. Charge A. with the improper act, and ten to one he would tell you, "I had nothing to do with it," and that he either voted against it or had no recollection of the transaction; and the same answer might be given by B. C. and D.

From this hasty view of the council of appointment, one cannot fail of perceiving that it constituted a branch of the government which would be likely to be wielded for the immediate benefit of the councillors themselves, or that its members were extremely liable to become the tools of artful and designing men, either in or out of the legislature.

Mr. Clinton and Mr. Spencer were both young men, and after the latter abandoned the federal party, they became cordial and confidential friends. Mr. Clinton was then but thirty-two years old. Both were ambitious and highly talented. Mr. Spencer was already distinguished as a lawyer, and Mr. Clinton, from his near relationship with the governor, the talents he had displayed as a writer and his energy as a politician and legislator, was viewed by all as a person who might reasonably entertain high expectations in public life. These gentlemen were understood as acting, and no doubt did act, in perfect concert as members of the present council; but a general impression prevailed that Mr. Clinton was the leader of the two, and of course the master spirit which controlled the council; Mr. Roseboom on all important questions, following the lead of the other two republican members. Mr. Clinton, on his arrival in Albany, previous to the first meeting of the council after Gov. Clinton was seated in the gubernatorial chair, caused it to be publicly made known that in his judgment the heads of the executive departments of the state ought to be composed of men who accorded with the majority of the people of the state in their political

views; and that the minor offices ought to be equally distributed between each party according to their respective numbers. His views, as represented by the Albany Register, on the subject of appointments, were substantially the same as those expressed by Mr. Jefferson in his celebrated letter to the New-Haven merchants, in answer to their remonstrance against the removal of the collector of that port and the appointment of Mr. Bishop. Even this line of conduct, moderate as it may now seem, was carrying the exercise and influence of the appointing power much farther than had been done by any preceding administration. Gov. Clinton, during the eighteen years he had administered the government, never in a single instance had consented to the removal of an officer on account of his political opinions and without proof of incompetence or misconduct; and even then not without notice having been given to the incumbent, and opportunity afforded him to make his defence before the council. Gov. Jay professed to adhere, and I presume did himself adhere, to the same rule of action, although there were, as we have seen, one or two removals from small offices without notice to the incumbents, and without any cause appearing on the journals of the council. But these removals, it is fair to presume, were made by the members of the council against the wishes of Mr. Jay. It strikes me, however, that there is no just cause to complain of the rule of action which Mr. Clinton declared would govern his conduct as a councillor. The public interest certainly requires that the heads of the executive department should entertain the same views, on all great political questions, as the chief executive, otherwise jealousies will grow up and obstructions will be likely to be thrown in the way of the action of one department by the other, and the governmental machine, instead of each part moving in unison with all the other parts, will be checked and



clogged in its operation; and as respects the inferior offices surely no party in the minority ought to complain if they have a proportion of the offices and emoluments equal to their numbers when compared with the party in the majority. But when the public once learned that office and its emoluments were to be conferred on account of the political opinion held by the candidate, both Mr. Jefferson and Mr. Clinton soon must have been convinced that the importunity of political friends could not be resisted, and accordingly they themselves were the first to violate their own rules.

When the political control of the state was transferred from the federal to the republican party, by the elections of April 1800 and 1801, the republican party in New-York may be said to have had three leaders. These were the Clintons, the Livingstons, and Aaron Burr. By far the greatest number of people belonged to that portion of the republican party who were attached to Gov. Clinton; the Livingstons, as a family, were numerous, more wealthy, and hence the most powerful; and Col. Burr possessed a small number of friends and admirers, most of whom resided in the city of New-York, but he had a few followers in almost every county in the state. He had no family connexions, nor were his supporters, generally speaking, men of wealth. He himself seems always to have been insolvent, although he received and expended a great amount of money. But his friends, though few in number, were extremely devoted to their chief, and most of them were men of considerable political tact and uncommonly active. Before the council, of which we are now speaking, commenced their operations, Burr had rendered himself obnoxious to the animadversions and suspicions of the republican party by his conduct in relation to the pending presidential election, and there is every reason to believe that, notwithstanding the senti-

ments expressed at the Albany festival in the winter of 1801, held in commemoration of the democratic triumph in the election of Jefferson and Burr, on which occasion Mr. Burr was toasted as a person whose "uniform and patriotic exertions in the cause of republicanism were eclipsed only by his late *disinterested conduct*," (referring undoubtedly to his conduct during the presidential canvass,) before that council made a single appointment, it was determined by the Clintons and Livingstons that Burr and his immediate partizans should no longer be considered as members of the republican party. The great offices of state were therefore to be divided between the Clintons and the Livingstons, and their immediate friends. ✓

At the first meeting of the council on the 8th of August, John Blake was appointed sheriff of Orange county, and Peter Vrooman sheriff of Schoharie. These gentlemen Gov. Jay had, on the 24th February, refused to nominate, and that refusal was the immediate cause of the breach between him and the council. Sylvanus Miller was appointed surrogate of New-York. He was the ardent friend of Mr. De Witt Clinton, and continued, through all the changes of fortune which were then in reserve for his patron, his unwavering supporter. Mr. Miller at, or shortly before his appointment, was a resident of the county of Ulster; and the New-York people complained of the council for importing a surrogate from the country for that city. But the good nature and prepossessing deportment of Mr. Miller soon dissipated those complaints. Possessed of a great fund of anecdote, fine conversational powers and ready wit, which was dealt out in such a manner as never to wound the feelings of others, and of a disposition the most social, he soon became what he now is, though far advanced in life, the favorite of all who knew him. He, for many years, held the office of surro-

gate, which in the great city of New-York is an highly important office; and I have never heard him charged with official misconduct. Edward Livingston, then a distinguished member of congress, was created mayor of New-York. Maj. Daniel Hale was removed from the office of secretary of state, and Doct. Thomas Tillotson was appointed in his place. This gentleman was, by marriage, connected with the Livingston family. I believe he was the brother-in-law of the chancellor. John V. Henry was removed from the office of comptroller, and Elisha Jenkins was appointed his successor. Mr. Jenkins was a merchant of the city of Hudson. His appointment to this office was undoubtedly produced by Mr. Spencer. Mr. J. abandoned the federal party in company with Mr. Spencer, and has ever since steadily adhered to his political fortunes. From the principles upon which the council assumed to act, as declared by Mr. Clinton, the removal of Mr. Henry followed as a matter of course; but it is nevertheless to be regretted that a man of such pure integrity, high principles of honor and distinguished talents, could not have been retained in the service of the state. It is not derogatory to Mr. Jenkins to say, he was far inferior to the person who was removed in order to make a place for him.

Mr. Henry was so deeply disgusted at the transaction. that, at the moment of his removal, he resolved never again to accept of any office, but devote himself entirely to the practice of his profession. That resolution he religiously kept to the end of his life. By his industry and talent he established a professional reputation, in my judgment, infinitely more valuable than any merely political, or rather partizan, reputation which has been achieved in this state. The council, probably in order further to afford a demonstration of what their future course would be, removed Thomas Mumford from the paltry office of

master in chancery and John Richardson from the office of judge of the court of common pleas for the county of Gayuga. As these removals were wholly without any other cause than that the incumbents entertained political opinions different from the majority of the council, Gov. Clinton caused his protest against them to be entered on the journals of the council. In other cases of removals the governor refused to sign the minutes of the proceedings of the council. Thus it appears that, although Gov. Clinton had been the great object of attack of the federalists, the target to which their most envenomed arrows had, for years gone by, been directed, so firmly had the principles of the right and duty of every freeman to form and express his own opinions of public men and measures become fixed in his mind during the revolutionary struggle, that this venerable patriot could not bring his conscience to consent that any of his fellow-citizens through his agency, or even by his tacit acquiescence, should be subjected to any loss on account of the frank, open and independent exercise of such right.

At the next meeting of the council, which was on the 11th of August, Gadwallader D. Colden, a man highly esteemed for his talents and private virtues, and a descendant from the colonial lieutenant governor of that name, was removed from the office of district attorney, and Richard Riker appointed in his place; Robert Benson was removed from the office of clerk of the city of New-York, and Teunis Wortman, a young man of talents, but of irregular habits, was appointed his successor; Richard Harrison, a celebrated and learned lawyer, was removed from the office of recorder, and John B. Prevost appointed; John McKisson was appointed clerk of the circuit, and William Coleman was removed to make place for him. Mr. Coleman was then a young man, (a native of Massachusetts,) of very respectable attainments as a scho-

lar and considerable talents as a political writer. After his removal Mr. Coleman established, under the patronage of Gen. Hamilton, the newspaper called the *Evening Post*, of which he, (Mr. C.,) continued the sole editor until his death. The *Evening Post* was considered the organ of Gen. Hamilton's political views, and I presume generally promulgated his sentiments. On the same day Conrad E. Elmendorf and Thomas R. Gold, the latter gentleman being a senator from the western district and an eminent lawyer, were removed from the office of district attorney, and Smith Thompson and Nathan Williams were appointed in their places.

During the succeeding sessions of this council various removals were made of clerks of counties, sheriffs and other county officers. Among other county clerks who were removed, Ebenezer Foote of the county of Delaware, was removed from the clerkship of that county. Mr. Foote was a federalist of considerable standing and influence. He had been a senator from the middle district, and in the year 1797, when Mr. Spencer was a member of the council, was appointed, and as Mr. F. alleged, was warmly supported by Mr. S. Much complaint was made about this removal, and a writer in the *Albany Register* under the signature of a Friend to Justice in justification of the removal charged Foote with official mal-conduct. This led to a correspondence between Foote and Spencer, which appeared in the party newspapers of the day, and was afterwards published in a pamphlet form by Mr. Foote. Mr. Philip Gebhard was the successor of Mr. Foote. Previous to the action of the council a personal controversy had occurred between these men, in the course of which Mr. Gebhard's name had been struck from the roll of attorneys of the Delaware common pleas. It was charged by the *Friend to Justice* that Foote had taken a very active part and had used unjustifiable means to cause Geb-

hard to be expelled from the Delaware bar. Mr. Foote, in his first publication, denies these charges. He alleges that Mr. Spencer was their author, and charges him with base and unworthy conduct as a public man and a member of the council. To this Mr. Spencer replied that he had no knowledge of the production of the "Friend of Justice," till he saw it in print, and that his reasons for voting for Mr. F's removal were different from those assigned by the Friend of Justice. In speaking of Mr. Foote's removal, Mr. Spencer says, "It was an act of justice to the public, inasmuch as in removing you, the veriest hypocrite and the most malignant villain in the state, was deprived of the power of perpetrating mischief." He adds, in his own peculiar style of severity and sarcasm, "If, as you insinuate, your interests have by your removal been materially affected, then, sir, like many men *more honest than yourself*, earn your bread by the sweat of your brow."

To this Mr. Foote replied, giving, or claiming to give, a sketch of Mr. Spencer's political life, charging him with being an applicant, in 1797, for the office of comptroller, and offering to prove it if he, [Mr. Spencer,] would absolve Thomas Morris from all honorary obligations to keep secret his knowledge of the application. Mr. Spencer replied, and denied that he was a candidate for the office of comptroller, and he called for proof of the charge. He further stated, "To facilitate you in your enquiry I absolve the whole world from injunctions of secrecy and the restraints of delicacy on the subject."

This correspondence deserves notice only for the reason that it affords evidence of the style and manner in which political controversies were at that day conducted; and as furnishing proof that Judge Spencer was not a candidate for the office of comptroller at any time before he abandoned the federal party. This proof is important because Judge Spencer is still charged, (and perhaps some believe

the charge,) with having deserted the federal party from feelings of resentment growing out of the refusal of Gov. Jay to nominate him to the office of comptroller. If the charge had been true, the fact must have been known at the date of this correspondence, and after this public defiance to highly excited opponents, is not their failure to produce any proofs of its truth decisive evidence that none existed, and that the allegation was false?

By the twenty-eighth article of the constitution of 1777, it was required that "new commissions should be issued to judges of the county courts other than the first judge, and to justices of the peace, once at the least in three years." When this new commission came into the county and was promulgated, all judges and justices of the peace whose names were not included in it were superseded of course. As all offices, excepting those particularly specified, were declared by this same article to be held during the pleasure of the council of appointment, it was holden that new commissions might issue at the pleasure of the appointing power at any time short of three years, with the same effect as if issued at the expiration of three years from the time of issuing the last commission. In pursuance of this construction, the present council, and whenever the political power changed from one party to the other, all subsequent councils, issued new commissions to most of the counties in the state. The consequence was, that by the leaving out of the new commissions federal judges and justices, and inserting the names of republicans in their places, the political power and influence of the council was carried into almost every neighborhood in the state. The tendency of this practice was to produce an impression among all ranks of people that men were to be punished or rewarded for their political opinions according to their standing and influence in society, and more especially at the polls of the election. The effect naturally was to

create a corps of electioneerers in every township in the state, under the name of justices of the peace, and thus judicial officers, who of all others ought to be entirely removed from party bias, were made the most active and zealous combatants in the political arena.

Chancellor Livingston had become incompetent by age longer to hold his office, of which he advised the governor; and John Lansing, jr., chief justice of the supreme court, was thereupon appointed chancellor. Mr. Livingston was soon after appointed minister to France, and terminated a brilliant and useful public life by a successful mission abroad, in which he had the good fortune, at a comparatively trifling expense, to negotiate the acquisition of the extensive and rich territory of Louisiana to the United States, and secure forever peaceable and convenient access to the ocean to our fellow-citizens, located, or to be located, in the vallies of the Mississippi and Ohio, and the great and almost interminable and fertile plains of the west.

Judge Benson had been appointed, under what was called the midnight Act of John Adams, a circuit judge of the United States, on the 3d March, 1801, and had of course resigned his office as judge of the supreme court of this state. This resignation, and the appointment of chief justice Lansing, chancellor, caused two vacancies on the bench of the supreme court. These vacancies were not supplied by new appointments until several months after they happened, and loud complaints of delay were made. The particular cause of this delay does not appear, but the federalists publicly charged Mr. Clinton and Mr. Spencer with a design to appropriate those offices to themselves. It is possible that Mr. Spencer may have desired a judicial appointment, but the previous as well as subsequent course of Mr. Clinton's life affords decisive evidence that the suspicion, as to him, was not well founded. But before



the expiration of the year after this council commenced acting, they appointed Morgan Lewis chief justice, and Brockholst Livingston and Smith Thompson judges of the supreme court.

In reviewing the appointments made by this council it will be perceived that not a single appointment of the least importance was conferred on the known friends of Col. Burr. In the city of New-York the persons selected to fill the offices seem generally to have been the personal as well as political friends of Mr. Clinton; but of the great state offices the Livingstons had much the greatest share. If there was an implied or express understanding that the offices should be divided according to the wishes of the Clintons and Livingstons, the Livingstons certainly took the lion's part. Chancellor Livingston was undoubtedly by the aid and influence of Gov. Clinton appointed on a foreign embassy; at any rate it is reasonable to infer he would not have received the appointment had Mr. Clinton been opposed to him. Edward Livingston was made mayor of New-York, an office at that time probably worth ten thousand dollars per annum; Doct. Tillotson, a brother-in-law of the chancellor, was created secretary of state; Morgan Lewis, connected by marriage with the family, was elevated to the office of chief justice of the supreme court; Gen. Armstrong, who was in the same way connected with the Livingstons, was appointed by the legislature, a short time before, United States senator, and Brockholst Livingston and Smith Thompson, whose wife was a Livingston, were created judges of the supreme court. It is nevertheless but an act of simple justice, in this place to add, that the gentlemen belonging to the Livingston family who received these appointments were all of them men of high character for talents, and in all respects well fitted for the offices to which they were respectively appointed. Edward Livingston was not only

competent to execute properly the duties pertaining to the mayoralty, but all will now admit that his talents qualified him for any office within the control of the people of the state or nation. The reports of the supreme court of this state are enduring monuments of the learning and abilities of both Brockholst Livingston and Smith Thompson. As a man of genius Livingston was unquestionably the superior of Thompson; but for legal acumen, clearness of perception, and logical powers of mind, there are few if any men, in this or any other country, who excel Judge Thompson.

The legislature met at Albany, Jan. 26, 1802. Thomas Storm of the city of New-York was chosen speaker of the assembly.

Nothing remarkable was contained in the governor's speech, but like all the communications of George Clinton it presented in a very brief form the general condition of the state, accompanied with suitable and judicious remarks on the various subjects of legislation, which in the judgment of the governor demanded the attention and action of the legislature.

On the third of February the assembly elected a council of appointment for the ensuing year. It consisted of Benjamin Hunting from the southern, James W. Wilkin from the middle, Edward Savage from the eastern, and Lemuel Chipman from the western district. Josiah Ogden Hoffman had, for a long time, held the office of attorney general, and on referring to the removals and appointments by the preceding council it will be perceived that although the secretary of state, comptroller, &c., were removed, Mr. Hoffman was not disturbed in the enjoyment of his office, notwithstanding he had distinguished himself as one of the most active and zealous federalists.

The following facts will account for the forbearance of the council of 1801 towards Mr. Hoffman.

When Mr. Spencer was a member of the federal council in 1797, an attempt was made, probably on the suggestion of Gov. Jay, or possibly by some of the friends of Mr. Jones or Mr. Henry, to pass a resolution and enter the same on the minutes of the council, that it was improper for any person while a member of the council of appointment to receive an office from that body. Mr. Spencer opposed the adoption of that resolution, and in one of his letters to Mr. Foote, to which I have above referred, he assigns the reasons of his opposition. He, no doubt, had fixed his eye upon the office of attorney general, while he was a member of the council in 1801; but as the propriety of a councillor's receiving an office from a body of which he himself constituted a fifth part had been so recently a subject of public discussion, Mr. S. no doubt felt that it would be indelicate for him to receive the office in question until another council should be chosen; and it is more than probable that an understanding existed between Mr. Hoffman and Mr. Spencer, that as soon as a new council should be formed, if that council should be republican, Mr. Hoffman should resign his office. Accordingly, at the first meeting of the council of 1802, Mr. Hoffman resigned the office of attorney general, and Mr. Spencer was appointed in his place. [*See Note A. end of Vol. 2.*]

William Stewart of Tioga county, a brother-in-law of Gov. Clinton, who had been removed from the office of district attorney of the counties of Ontario, Tioga, &c., by a federal council, under the administration of Gov. Jay, was, on the same day, restored to that office, which was vacated by the resignation of Mr. Nathaniel W. Howell of Canandaigua.

Very few other appointments of any importance were made by this council. They, however, appear to have pursued the policy of their immediate predecessors by filling the offices which became vacant exclusively with

men of their own party; and in the general commissions of the peace which they sent into several counties, they left off all the federal judges and justices of the peace whom they with decency could, and supplied their places by republicans.

Under the constitution, as amended, the assembly was to consist of one hundred members, and an apportionment was made by a law of this session giving each county its share of representation in that branch of the legislature in proportion to its population; but no other law of any importance, at least politically, was passed during this session. Mr. Clinton introduced a resolution proposing an amendment to the United States constitution, so that each state should be divided into districts, and the people of each district should choose one elector of president and vice-president, and also requiring the electors to designate on their ballot which candidate they voted for, for president and which for vice-president. These resolutions were adopted.

At the commencement of the session Gen. John Armstrong resigned his seat in the senate of the United States, and on the 9th of February De Witt Clinton was chosen to supply his place. Mr. Clinton was nominated by the assembly, and a federalist was nominated by the senate; but at a meeting of the two houses, on joint ballot Mr. Clinton received eighty-two votes and his opponent forty-five. In the controversy which occurred the succeeding summer, between Mr. Clinton and Col. Burr and his friends, the latter charged the former with much manoeuvring and bargaining in order to procure the resignation of Gen. Armstrong and the election of Mr. Clinton. The writers in the interest of Mr. Burr, affirmed that the appointment of Doct. Tillotson as secretary of state, was made on the condition that he should procure the resignation of Gen. Armstrong; but these allegations are entirely

void of any shadow of proof. Gen. Armstrong was not the man who would permit himself to be made an article of political merchandise or traffic, and the office of a senator of the United States being for any cause vacant, who is the man at that day who would have been more likely, without factitious aid, to receive the support of the majority of the republican members of the legislature than De Witt Clinton ?

The legislature adjourned on the second day of April.

The result of the spring election was decidedly favorable to the republican party. In the assembly a large majority of democratic members were returned, and all the senators chosen that spring were republicans.

John Schenck was elected from the southern; Solomon Sutherland and Abraham Adriance from the middle, and Jacob Snell, Matthias B. Talmadge, Asa Danforth, Joseph Annin and George Tiffany from the western district. The eastern district, under the new arrangement, was not entitled to elect any senators this year.

## CHAPTER VII.

FROM MAY 1, 1802, TO MAY 1, 1803.

IMMEDIATELY after the result of the election was known, the war between Aaron Burr and his partizans, and the Clintons and Livingstons, the materials for which had for a long time been gathering, burst forth and was carried on with extreme asperity and bitterness.

A daily paper had been established in New-York, called the American Citizen, which was considered the organ of the majority of the democratic party; but was understood to be more especially under the influence of De Witt Clinton. That paper first broke ground against Col. Burr, and openly and bitterly denounced him as a traitor to the republican cause, and in proof of his treachery, it charged him with intriguing with the federalists to defeat the election of Mr. Jefferson, and through their aid place himself in the presidential chair. James Cheetham, an Englishman by birth, a man of wit and great talents as a periodical writer, but as a political writer sometimes too regardless of truth, was the senior editor and conductor of this paper.

On the other hand, Col. Burr and his friends established a paper in New-York, denominated the Morning Chronicle, of which Dr. Irving was the editor, which was the antagonist of the American Citizen. Mr. Irving, who was a man of respectable literary attainments, did not seem so well qualified for that kind of cut and thrust warfare which then was, and now is, too much the fashion of the day, as Mr. Cheetham. The Morning Chronicle, however, carried the war into the camp of the opponents of Mr. Burr, charging the Clintons and Livingstons with

inordinate personal ambition, with exercising an unwarrantable and dictatorial power over the democratic party, and with having appropriated an unreasonable portion of the spoils of victory to their own immediate use. It affirmed that the conduct of Col. Burr had been correct and honorable, and that the opposition to him was produced by a desire to get rid of him, in order to bring forward some member of the Clinton or Livingston family as the prominent favorite of the democracy of the north, for the high office which Burr then held, and ultimately for the first office in the nation. The controversy was conducted, as I have remarked, with extreme asperity, and the leaders of the two sections of the republicans became personally hostile to each other; so much so that social intercourse was broken off between them, and even pecuniary transactions were affected and controlled by their political prejudices and animosities. The Manhattan Bank, we have seen, was owned and controlled by the republicans of New-York, and the power of that institution was now wielded against the Burrtes. Col. Burr and his warm personal and political friend, Col. John Swartwout, were turned out of the direction of that bank after a sharply contested election. Judge Brockholst Livingston was chosen a director to the exclusion of Mr. Swartwout. The language used by gentlemen in speaking of each other, was rude and offensive. Mr. De Witt Clinton, in a conversation relating to Mr. Swartwout, called him a "*liar, a scoundrel and a villain.*" And here I may remark, that one defect in Mr. Clinton's character as a public man, and indeed as a private citizen, was that he was too reckless in his remarks about gentlemen who differed with him in political opinions. He was too apt to treat and speak of every man who opposed his political views as dishonest, or wholly incompetent to judge between right and wrong. It is singular that

his long experience as a politician, and his extensive acquaintance with men, did not more effectually convince him that it was not true that every man who did not accord with him in sentiment was either a knave or a fool.

Mr. Swartwout was a generous and brave man, ardent in his friendships, and equally heated against those he chose to consider as his enemies. He was passionately devoted to Col. Burr, but like most of Burr's adherents, too careless about the means used for the accomplishment of political ends. The offensive language of Mr. Clinton in respect to Col. Swartwout, which I have quoted, induced the latter gentleman to demand through his friend Col. Smith, an apology or recantation from Mr. Clinton. Mr. C. replied that Swartwout had charged him with opposing Col. Burr from unworthy and selfish motives, that he had applied the epithets to Mr. Swartwout in reference to that charge, and that if Swartwout would retract his charge, he (Mr. C.) would apologize for, or take back the offensive expressions. This Swartwout refused to do. A duel was the consequence. Five shots were exchanged, and Mr. Swartwout was twice wounded, notwithstanding which he expressed his desire to continue the fight. Mr. Clinton declared that he was shooting at a man against whom he felt no personal enmity, and the surgeons finally interfered and declared that the situation of Mr. Swartwout was such as rendered it improper that the contest should be continued.\*

\* Mr. John C. Hamilton, in the second volume of the *Biography of his Father*, p. 376, after speaking of a pamphlet, written by Gen. Hamilton, recommending mild and lenient treatment towards the tories of the revolution, and of the effect that pamphlet had on the public mind in allaying the persecuting spirit which existed among the whigs against that class of people says, "that the pamphlet and its effects excited bitter animosity against the General among a portion of the citizens of New-York; and he states that "there existed at this time an evening club, composed of persons conspicuous in the prosecution of these attainers," (of disaffected persons,) "some of whom had written in opposition to Phocion, (the signature assumed by Gen. Hamilton,) and who felt themselves the deserved objects of its just denunciation!"

"Early in the evening of this meeting, it was proposed that Hamilton should



About this time Mr. Cheetham published a pamphlet entitled "*A view of the political conduct of Aaron Burr*," in which he professed to give a history of his political conduct, from the time of his first entrance into public life down to the time when the pamphlet was written. It was written with great tact, and although evidently too bold in its denunciations and too reckless in assuming charges proved which rested upon slight circumstantial evidence, there seems, in my judgment, enough contained in it to lead the mind fairly to the conclusion that Col. Burr was a trimmer in politics, and an unsafe man to be entrusted with an important office. Shortly afterwards a pamphlet appeared to which the fictitious signature of Aristides was affixed. This pamphlet attacked with unprecedented severity the public and private character of nearly all the distinguished men of the republican party. Doct. Tillotson and Judge Livingston, and indeed the whole Livingston family, were assailed with great bitterness. Their motives were arraigned and impeached, and their private character for honor and veracity was traduced and villified. The writer alleges the governing maxim of the Livingston family to be—

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"Rem, facias rem,  
Si possis recte, si non, quoque modo, rem."

But the vials of his wrath, the dregs of his gall and bitterness, seem to have been reserved to be poured on the heads of De Witt Clinton and Ambrose Spencer. He

be challenged, and in case the first challenger should fall that others should challenge him in succession," until some one should take his life.

This barbarous plot was defeated by the opposition of Mr. Ledyard, who was one of the writers whom Hamilton had attacked, who came in in time to break up this savage combination.

Suspensions were entertained by the opponents of Col. Burr, that some such combination had been formed by the Burrites in relation to Mr. Clinton and his leading friends. A subsequent challenge and duel with Richard Riker favored this suspicion; but no man who is acquainted with the frank and open hearted John Swartwout can for one moment tolerate the idea that he was a party to such a combination.

charges them with every thing vile, every thing mean and malignant. William P. Van Ness is now the admitted author of this production. It is written with great talent. As a political writer, its style renders Mr. Van Ness unrivalled since the days of Junius; and yet, every sentence and line of it seems to have been written with such intense hate and malice boiling in his bosom, that no man who possesses the least portion of the milk of human kindness would consent to enjoy the reputation for genius and talent, to which the author is entitled, if the possession of that reputation must of necessity be connected with the evidence which this pamphlet affords of the extreme malignity of the heart of the writer.

There can be no doubt but that both parties to this controversy, in their speeches and writings, did injustice to the adverse party, and it would be unsafe implicitly to rely even on the statement of facts by either. Honorable men, under high party excitement, will distort and discolour facts in their statements, so that it will be often difficult for a disinterested person to arrive at a correct conclusion. Lady Betty Germain was right when she said, "I have lived long enough never wholly to believe any side or party against the other." There were, however, a combination of facts and circumstances connected with the last presidential election, as we have heretofore seen, which could neither be denied nor satisfactorily explained; and which rendered it impossible for candid men to avoid coming to the conclusion that Col. Burr had not conducted with good faith towards his political friends. There is no vice or frailty to which man is liable which excites more abhorrence in a generous mind than treachery towards friends. We can forgive an open enemy who has injured us; we can sometimes admire his energy, his enterprise, and his spirit, even when his efforts are exerted against ourselves, but we cannot avoid despising as well as detest-

ing the traitor. But the republican press, out of the city of New-York, for a long time declined interfering in this controversy, and it was not until the 16th of November that the Albany Register came out openly against Mr. Burr. The editor of that paper, (Mr. Barber,) a very upright and honest man, then declared that he had for a long time hesitated, but that the evidence of Col. Burr's tergiversations had so multiplied upon him that he could no longer resist the conclusion that Mr. B. had forfeited the confidence of the republican party. Nearly all the democratic newspapers followed in the wake of the Albany Register.

The legislature convened on the 24th January, 1803. When the members came together it was soon ascertained that an immense majority of the republicans disapproved of the conduct of Col. Burr, and that he no longer possessed their confidence. Thomas Storm was re-elected speaker, and Solomon Southwick was chosen clerk in opposition to Mr. Van Ingen, a federalist who had long been the clerk of the assembly. The vote stood forty-two for Southwick and thirty-one for Van Ingen. This, however, was not a true criterion of the strength of parties; for shortly afterwards a question was taken in the house on the answer to the governor's speech, when it appeared there were but twenty federalists in that branch of the legislature; at any rate there were but twenty who voted. Mr. Southwick was the brother-in-law of Mr. Barber, the proprietor and the editor of the Albany Register, and connected with him in the printing and management of that paper. Mr. S. was then a young man, elegant and prepossessing in his personal appearance, of ardent feelings and fascinating manners. He was a most zealous democrat. His intercourse with his acquaintance was frank and cordial. He was warm in his friendships, and magnanimous and generous to his enemies. These quali-

ties soon procured him a powerful influence with the members of the legislature, and the republican party in general.

It became necessary during this session to elect a senator of the United States, in lieu of Gouverneur Morris whose term of service expired on the 4th of March, 1803. The prominent republican candidates for that office were Gen. Theodorus Bailey, then of Dutchess county, and Mr. John Woodworth of Rensselaer county, afterwards attorney general, and lately a judge of the supreme court. The election was to take place on the first day of February; and on the evening preceding, a caucus of the republican members was held, at which, upon a ballot, Mr. Bailey had thirty votes and Mr. Woodworth forty-five, who, of course, was declared duly nominated. Matthias B. Talmadge, a senator and brother-in-law to Gen. Bailey, was dissatisfied with this nomination, and set himself at work to defeat the election of Mr. Woodworth. He persuaded several of the democratic senators, chiefly those coming from the southern part of the state, and some of the members of assembly, of whom Mr. James Burt of Orange county was the most active, to abandon the caucus nomination and agree to vote for Gen. Bailey; but a sufficient number of members of assembly could not be dissuaded from the regular usage of their party to prevent the nomination in that house of Mr. Woodworth; for the next day, in the assembly, Mr. Bailey had nineteen votes, Mr. Morris eighteen and Mr. Woodworth fifty-three, and he was of course nominated. In the senate, where the federalists were stronger in proportion than they were in the assembly, a communication was opened with them, and Mr. Van Vechten got up a federal caucus on the morning of the first of February, and before the hour of meeting for the senate had arrived, at which it was agreed ultimately to support Gen. Bailey.

When the senate came to act on the nomination of an United States senator the federalists all voted for Gouverneur Morris, and a few of the republicans voted for Mr. Bailey, leaving a minority vote for Woodworth. A resolution was then offered, that Mr. Bailey be declared nominated on the part of the senate, and carried by the following vote:—Adriance, Bruyn, Chipman, *Foote*, Gordon, Hatfield, Hathorn, *Hitchcock*, Hunting, *Kent*, L'Home-dieu, *Lawyer*, Suffern, Talmadge, *Van Schoonhoven* and *Van Vechten*. Those whose names are in italics were federalists. It will be perceived that Mr. Bailey was nominated by the aid of six federal votes. When the two houses met to compare nominations, Mr. Talmadge and his republican friends of the senate, and Mr. Burt with his corps of nineteen in the assembly, voted with the federalists on joint ballot, and the result was Mr. Woodworth had fifty-seven, and Mr. Bailey fifty-nine votes, and he was declared duly elected.

It is impossible to look upon this transaction without disapprobation. I speak neither of the merits or demerits of Gen. Bailey; for although, he was one of the members of congress in 1800, whom Col. Burr had indicated as a person who would eventually vote for him for president; and although it has been alleged that he was persuaded to decline the performance of his agreement with Burr, under a promise of office from Mr. Jefferson, and that the New-York post office was finally given to him in fulfilment of that promise, I have reason to believe he was a respectable man—certainly he was an amiable member of society. Yet I think that when political friends consent to go into caucus for the nomination of officers, every member of such caucus is bound in honor to support and carry into effect its determination. If you suspect that that determination will be so preposterous that you cannot in conscience support it, then you ought on no account to become one

of its members. To try your chance in a caucus, and then because your wishes are not gratified, to attempt to defeat the result of the deliberation of your friends, strikes me as a palpable violation of honor and good faith. You caucus for no other possible purpose than under the implied agreement, that the opinion and wishes of the minority shall be yielded to the opinions of the majority and the sole object of caucussing is to ascertain what is the will of the majority. I repeat, that unless you intend to carry into effect the wishes of the majority, however contrary to your own, you have no business at a caucus. ✓

During this session, it was ascertained that the treasurer, Mr. McClanan, had become a defaulter in more than thirty-three thousand dollars. It would seem from Mr. C.'s statement which I have barely once casually and hastily read, that he was in arrears with his creditors when he was appointed; and that, pressed by their importunities he had applied some of the funds of the state to satisfy those arrears. There was a sharp contest for the office of treasurer when Mr. McClanan was appointed, and if his statement be correct, is it not probable that some of his creditors may have urged his appointment in the hope of realizing their debts rightly if they could, if not rightly, that at any rate they would realize them?

Upon the discovery of this defalcation, the legislature appointed Abraham G. Lansing, brother of the chancellor, a man of wealth and high character for integrity and correct business habits, treasurer. They also by the same law enacted that the treasurer should keep his accounts in banks separate from his private accounts, that he should forthwith deposit all monies he should receive in the Bank of Albany, that he should exhibit his bank book once a month to the comptroller, who, if he discovered any errors or irregularities, was required to report the

same to the governor, who was authorized and required immediately by proclamation to suspend the functions of the treasurer, and from that moment the duties of the treasurer devolved on the president and directors of the Bank of Albany. This act was passed on the 8th day of February.

On the 19th of March, a law was passed chartering the New-York State Bank. I shall, however, in pursuance of what I have before intimated, omit any account of the proceedings of the legislature on this subject till I come to the year 1812, when the Bank of America was incorporated, other than to remark, that a new and very exceptionable ground was taken by the petitioners for this charter, in support of their application. There were then but three banks north and west of the city of New-York. These were the Bank of Columbia at Hudson, the Farmer's Bank between Lansingburgh and Troy, and the Bank of Albany in the city of Albany. It was said, and no doubt said truly, that the stock of these banks was principally owned by federalists. A large majority of the petitioners for the State Bank, claimed to be republicans; they therefore asked for a charter upon party grounds, as a political measure, upon the assumed principle, that the bank, if chartered, was to be a republican bank! How supremely absurd was this pretence! They might as well have talked of republican wheat or corn, of republican air and water, as of republican money or a republican bank.

The April election this year, resulted in the complete triumph of the democratic party, not only in this state but in almost every other state in the union. Mr. Jefferson was a southern man, and local feelings and personal predilections secured him the unanimous support of the south. The northern and middle states were relieved from internal taxes, the army was principally disbanded, the odious

sedition law was abolished, and all men could speak and write what they pleased,—a privilege of inestimable value to the talking and scribbling eastern and northern people,—Mr. Jay's treaty had secured a peace with England, and with France we were on good terms, a considerable portion of the transportation of the merchandize of Europe was carried on by American vessels almost exclusively owned by citizens of the eastern, northern and middle states, the bread stuffs produced in those states were in great demand in Europe to feed the countless legions of soldiers which the nations of the old world then had in the field, wheat was at the enormous price of from two to three dollars per bushel, national and bank stocks were steadily rising in value, and the great revolutionary national debt was in a rapid progress of extinguishment; under such circumstances of unprecedented prosperity, it is not at all surprising that the people should have been contented and happy, and should have clung to that administration which apparently secured to them such high advantages over any other nation on the globe.

John Broome, (afterwards lieutenant governor,) was elected senator from the southern district, Robert Johnson, Joshua H. Brett, and James Burt from the middle, John Tayler, John Woodworth, Edward Savage, Simon Veeder, and Thomas Treadwell from the eastern, and Caleb Hyde from the western district, all republicans. The aggregate vote of the freeholders of the state gave the democratic ticket a majority of eight thousand five hundred and eighty-eight. In the assembly eighty-three republicans were elected and but seventeen federalists.

In detailing the proceedings of the legislature during the winter of 1803, I have omitted to mention that the assembly chose Ebenezer Purdy of the southern, John C. Hogeboom of the middle, Jacobus Van Schoonhoven of



the eastern and Jacob Snell of the western districts members of the council of appointment.

I cannot write the name of JOHN C. HOGEBOOM without recording my testimony to the goodness of his heart and the energy and vigor of his intellectual powers. He was a native of Columbia county, where he died. His education had been limited, but he was one of nature's great men, possessing a sound judgment and clear and discriminating mental faculties. Ardent and indefatigable in advancing the interests and wishes of his friends; he was courteous and liberal towards his political opponents. He lived esteemed and respected, and died bitterly lamented by all, and especially by those who had the happiness of knowing him.

No important appointments were made by the council during the winter.

## CHAPTER VIII.

FROM MAY, 1803, TO MAY, 1804.

IN the summer of 1803, Mr. Edward Livingston, who had been appointed United States attorney for the district of New-York, resigned the office of mayor of that city. The mayor at that time possessed much more power and greater patronage than at present, and the office, both on account of its dignity and emoluments, was sought for by men of high standing and character. Morgan Lewis then, as we have seen, chief justice of the supreme court, was a candidate, as also De Witt Clinton, at that time a senator of the United States. The office was not filled by the council for a considerable period after it had been vacated, and even Mr. Edward Livingston, although he had resigned it as incompatible with the performance of his duties as United States attorney, it is said manifested a desire to be re-appointed; but Mr. De Witt Clinton was appointed the successor of Mr. Livingston. The acceptance of this office rendered it necessary for Mr. Clinton to vacate his seat in the senate of the United States, and accordingly he soon after resigned that station.

The political prospects of Mr. Clinton were, at that time, justly considered equal if not superior to any man of his age in the state of New-York, and perhaps it may be added, in the northern states. He has been charged with being governed by a vaulting ambition, and there can be no doubt that from the commencement of his public career, his aspirations were of a character high and exalted. So lofty was his aim and mark, that whoever knew him will bear me out in the remark, that it was always inconsonant to his disposition to act in a capacity subordi-

nate to any man. I mention these traits in his character for the purpose of justifying me in alleging that it is more than probable that at this time he entertained views of attaining the presidency of the United States. If, then, such were his views, and he was at this period actually aiming at that high object, then, I affirm, as a politician, seeking by fair and honorable means to accomplish this great end, he was guilty of an error; and so far as I can perceive, his first error in respect to his own political fortunes, in resigning his seat in the senate of the United States. He should not have left the service of the nation; on the contrary he should, if in his power, have constantly kept himself before the American people, in the service of the United States. He had, during the short period he was a member of the senate, taken an active part in the deliberations and discussions of the senate, and had acquitted himself in a creditable manner. He was the favorite son of New-York. He was morally certain that the whole popularity and weight of character of his venerable uncle, then governor of the state, would be thrown into the scale in his favor; and if at any time he should desire to abandon legislation, the influence of Gov. Clinton and the whole republican party of the state was surely sufficient to have secured him a seat in the national cabinet, or a foreign embassy; which, as I have before remarked, would have kept him constantly before the American people. All these advantages he gave up in order to come back to the city of New-York, thereby becoming a party in the controversies of the bar-room politicians of that city, and to the petty quarrels in the city and state of New-York about the pitiful offices of masters in chancery, sheriffs, clerks, county judges and justices of the peace. True, he might have the momentary pleasure of disposing of those appointments and enjoying the flattery which those small and successful office-seekers might lavish upon him;

but did it not occur to him that the unsuccessful candidates for office would be more numerous than the successful ones, and that the disappointed would remember the injury they imagined done to them, longer than the appointed would the favor conferred on them, by the person who procured their appointment? Mr. Clinton lived long enough to be convinced by sad and bitter experience that such was in fact the nature of man. It may be urged that his pecuniary circumstances required the perquisites of the mayoralty; but such was not the fact. Although Mr. C. received very little from his father, he had lately married the daughter of Walter Franklin, a wealthy member of the society of friends in New-York, by whom he received a fortune of about forty thousand dollars in cash, or in good investments. Mr. Clinton did not improvidently expend money in an extravagant style of living. A judicious investment of the fortune he received from his wife would, together with what he would have received for his services, even had he continued in the employment of the national government, have afforded a sufficient income to have enabled him to have lived decently without impairing his capital. In the end, his return to New-York had a disastrous effect on his pecuniary concerns. Young and enterprising business men without capital, but anxious to engage in business, who were vigorous and energetic supporters of the democratic party, looked to Mr. Clinton to aid them with credit or cash, and enable them to commence business. Mr. Clinton was, at that time, a director in the Manhattan Bank, and paper which he endorsed and recommended was sure to be discounted. Anxious to patronise young men, and liberal to a fault, Mr. Clinton lent his influence and name to all republican young men in whose capacity he had confidence, and whose habits he supposed to be good. There were many failures; some chargeable to the misfortunes incident to

commercial life, and some to misconduct and downright knavery. To discharge the liabilities thus incurred, Mr. Clinton was obliged to create large debts, which embarrassed and harrassed him during his life. Among the imperfections incident to humanity is one, which however odious, always has existed and always will exist. It is this:—When your neighbor has conferred on you an obligation which you find it impossible to repay, it weighs heavy on your mind; but if a man quarrels with his benefactor and declares him to be his enemy, then the vitiated and distorted mind of the ingrate feels, or affects to feel, that all previous obligations between him and his friend are cancelled; and he fancies that the public no longer expects that he shall do acts of kindness to one whom he has declared his enemy. Hence cold and calculating knaves will frequently seek a quarrel with the man who has done them a kindness which they cannot or do not wish to reciprocate, for the sole purpose of absolving themselves, in their own opinion, from the obligation of repaying past favors.

This detestable propensity in our nature, was afterwards fully developed towards Mr. Clinton; and in the progress of our enquiries we shall see nearly the whole host of disappointed office-seekers and bankrupt makers of notes which he had as endorser been compelled to pay, united in a most vindictive and exterminating political war against him.

In any aspect therefore, in which the question of the policy of the withdrawal of Mr. Clinton from the political theatre of Washington can be viewed, his decision was indiscreet and unwise.

Gen. Bailey had scarcely taken his seat in the United States senate when he was appointed post-master at the city of New-York. He therefore resigned the office of senator, and the state was now wholly unrepresented in one branch

of the national legislature. Early in the year 1804, Jacob Radcliff resigned his office as judge of the supreme court. I am ignorant of his reasons for resigning, but from his subsequent conduct it is very evident that if he was disgusted with the occupation of a public station at that time, his taste for political life revived with great intensity not long afterwards. On the 3d of February, Ambrose Spencer, then attorney general, was elevated to the bench of the supreme court, to supply the vacancy occasioned by Judge Radcliff's resignation, and John Woodworth was appointed attorney general.

All parties, and especially the members of the bar, highly venerated the talents and felt the most profound respect for the legal learning and capacity of Judge Spencer, but the federalists were alarmed lest his political principles and partizan feelings should influence and bias his judicial conduct. In this they were happily disappointed. He discharged his official duties not only with great ability but with undoubted integrity and rigid impartiality. I may as well say in this place as any where, that although Judge Spencer from the commencement of his professional and political life, has at all periods of it, been an ardent and it may be added, at sometimes a violent partizan, and his conduct as such, may at times, have justly excited animadversion; yet as a judge he was always able, always independent, always impartial and always honest.

It is a somewhat singular coincidence that William W. Van Ness, then a young lawyer, and a zealous federalist of Columbia county, afterwards a judge of the supreme court, was removed from the office of surrogate of the county of Columbia, for political reasons, by the same council at the same time that Mr. Spencer was appointed a judge. Did either one or the other anticipate what would be their official, social and political relations for several years succeeding the year 1816? Politicians like

all other men are blind to the future, and it is perhaps well that they are so.

The legislature met on the 31st day of January. Alexander Sheldon of Montgomery county, was chosen speaker, and Mr. Southwick was re-elected clerk. As usual the governor's speech was short, but replete with good sense. Among other things, he announced to them the recent amendment of the United States constitution, requiring the presidential electors to designate the candidates voted for, for president and vice-president. He also reminded the legislature that two senators of the United States were to be chosen. The two houses immediately proceeded to the choice of senators, and on the 2d February, John Armstrong and John Smith were elected without much opposition.

On the 16th February, the assembly chose a council of appointment, consisting of John Broome from the southern, Abraham Adriaance from the middle, Thomas Treadwell from the eastern, and Caleb Hyde from the western districts.

At Washington, as well as in the state of New-York, all political confidence was withdrawn from Col. Burr, by an immense majority of the republican party, and his friends did not even attempt to procure his nomination for vice president at the approaching presidential election. The democratic party in the nation, with great unanimity turned their attention to Gov. Clinton, and he was nominated without opposition from any quarter. The acceptance of that nomination by Gov. C. rendered it necessary to select some other person as the republican candidate for governor of the state of New-York, and men began to cast about for a suitable person to be supported for that office.

In the mean time Mr. Burr and his friends were not inactive. The last annual election had exhibited so large a

democratic majority in the state that the federalists had not the least hope of success in the election of a governor, if they should attempt to support a candidate from their own party. Under these circumstances the Burrites concluded to bring out their chief in opposition to the regular republican candidate, whoever he might be,—in the confident expectation that the federalists would generally cast their votes for him. I have before remarked that this kind of political manœuvring is generally weak and in most cases terminates in the prostration and ruin of the actors in the drama. Col. Burr's prospects, however, seemed to assume an imposing aspect. His republican friends in the city of New-York, though not numerous, were talented, industrious, active and indefatigable in their exertions; and in almost all the counties in the state some distinguished republicans declared themselves in his favor. In Dutchess and Orange counties he had considerable strength among the republicans. In Orange he had heretofore been a favorite, having been elected once a member of assembly, and afterwards a delegate to the convention by the republicans of that county, although he resided in the city of New-York. Jonathan Fisk, George Gardner, David M. Wescott and Peter Townsend, efficient and influential democrats of that county, were his zealous and active friends. Mr. Burt of the senate was said to be inclined also to support Col. Burr. Gen Erastus Root of Delaware, the bold and decided republican of 1798, and a member of congress, was his avowed friend. John Van Ness Yates of Albany, son of the late chief justice, came out in his favor. At the west, Judge Annin of the senate, and Oliver Phelps the great eastern land speculator, then living in Ontario county, announced themselves the friends of Col. Burr, and Peter B. Porter, then a young man and clerk of Ontario county, was also a Burrite.



The friends of Col. Burr in the legislature, first broke ground. A meeting was held at the Tontine Coffee House in Albany, on the 18th of February, of which William Tabor, a member of assembly from Dutchess county, was chairman, and Joseph Annin of the senate was secretary; at which Col. Burr was nominated for governor. I have been unable to ascertain how many members of the legislature were in attendance and took part in the meeting. Their numbers, however, must have been very small. This nomination was reiterated at a meeting held in New-York on the 20th of February, of which Col. Marinus Willet was chairman, and Ezekiel Robins, secretary. Shortly afterwards, at a meeting of citizens in Albany, the nomination of Burr for governor was concurred in, and Oliver Phelps of Ontario county, was nominated for lieutenant governor.

Previous to the nomination of Col. Burr, a legislative caucus of republican members was held in the assembly chamber, of which Ebenezer Purdy was chairman, and S. Southwick, secretary, when Chancellor Lansing was nominated for governor, and John Broome for lieutenant governor. The chancellor in the first instance accepted the nomination, but on the 18th day of February he addressed a letter to Mr. Purdy, the chairman, in which he stated, that he had reluctantly accepted the nomination, because it was represented to him that his acceptance would afford a point of union calculated to promote and procure the ascendancy of republican principles, but said he "subsequent events have induced me to believe that my hopes on this subject were too sanguine." He therefore declined to stand a candidate. What those "*subsequent events*" were to which the chancellor alluded, I shall have occasion to explain hereafter. On the 20th of February, another republican caucus was held, at which Mr. Purdy again presided. At this meeting, Morgan Lewis was

nominated for governor, and Mr. Broome was again nominated for lieutenant governor. It would seem that the nomination of Chief Justice Lewis was made with some reluctance. At any rate he was evidently not the first choice of the party. Probably some jealousy was then entertained of the influence and power of the Livingston family. Others it is said, doubted his fitness and capacity for the proper discharge of the duties of the chief executive of the state. The declension however, of Chancellor Lansing, was a complete surprise to the party, and no other person on that emergency could be fixed upon. Mr. Clinton was quite young, and no doubt the Livingstons, and perhaps some others, began to entertain some jealousy of his rapidly increasing influence and power. Judge Spencer had so recently been a decided and active federalist, that it was doubtful whether all the republican freeholders could be induced to vote for him. The time for deliberation was necessarily short. In this state of things Mr. Lewis was selected, and his political friends three years afterwards alledged that "his nomination was caused by *fortuitous* circumstances." An address, however, was drawn up in favor of his election, and signed by one hundred and four members. This was certainly evidence of great unanimity, as that number included all the members of both houses save twenty-eight only. It will, therefore, be seen that, including federalists as well as Burrites, their whole number amounted to no more than twenty-eight out of one hundred and thirty-two.

At the February term of the supreme court, a cause was argued which highly excited the attention of the New-York public, as well from the importance of the question disputed, as the eminent standing and transcendent ability of the council who took part in the argument.

Harry Crosswell, the printer and editor of a leading federal paper called *The Ballance*, published at Hudson, had

attacked Mr. Jefferson with great severity. The grand jury of the county of Columbia indicted him for a libel. The cause was tried by Spencer, attorney general, on the part of the people, before chief justice Lewis. On the trial Mr. Croswell offered to prove the truth of the charges contained in the libel set out in the indictment; and the court, in accordance with the English common law doctrine, rejected the evidence. The court further instructed the jury that the only question for them to decide, was the fact whether the alleged libel had been published by the defendant, and that the question of libel or no libel was to be determined exclusively by the court. A motion was made for a new trial, and was argued on the part of Mr. Croswell by Wm. W. Van Ness, Harrison and Hamilton. Gen. Hamilton, on this occasion, it is said, excelled all his former efforts. He took a wide and extended range, and shewed that the maxim "the greater the truth the greater the libel," was of modern date in England: that it was at war with the genius of all our civil institutions, and manifestly a palpable outrage on human rights, common justice and even common sense. The effect of his eloquence is still remembered with enthusiasm by those who had the good fortune to hear him. Alas, that it was destined to be the last effort, at the seat of government of this state, of that wonderful man.\* The court, however, did not feel at liberty to depart from what they deemed the fixed and settled rule of common law; but the views presented by Gen. Hamilton and his associate council, made such a

\* A correspondent of the Evening Post, writing from Albany, after giving an account of the speeches of Caines and Spencer for the prosecution, and Wm. W. Van Ness and Harrison for the defendant, says:—"After all came the great, the powerful Hamilton. No language can convey an adequate idea of the astonishing powers evinced by him. The audience was numerous, and although composed of those not 'used to the melting mood,' the effect produced on them was electric. . . . As a correct argument for a lawyer it was very imposing, as a profound commentary upon the science and practice of government it has never been surpassed."

strong impression on the public mind, that a movement was soon after made in the legislature to pass a law authorising the truth to be given in evidence, where the matter written or printed was published from good and justifiable motives, and constituting the jury in this, as in all other criminal cases, judges of the law as well as the fact.

A bill for this purpose was immediately brought into the assembly by Mr. James Emmott, a federal member from the county of Dutchess. By the terms of this bill, as drawn by Mr. Emmott, the law proposed was made declaratory. This phraseology was opposed, as implying that such was then the common law, and as containing a covert censure on the court which had decided the case of *Croswell*. Other questions arose in proceeding on the bill, relative to its details, and in consequence of those disagreements the law of libels was not changed during that session; but in the following session, in 1805, the subject was again brought before the legislature, and an act was passed in conformity to the principles of the bill introduced by Mr. Emmott, not, however, including the word "*declared*." Thus the law of libels was placed on a true and correct foundation, perfectly consistent with the liberty of the press and the protection of the good name and reputation of every individual citizen. The principles of this statute were incorporated in the constitution of 1821. But it is time to return to the electioneering contest.

Had I observed accurately the order of time, I ought to have mentioned that, after the nomination of Chancellor Lansing, and before he finally declined, and while Gen. Hamilton was in Albany, a consultation or caucus was held by the leading federalists at Lewis's city tavern, for the purpose of comparing opinions on the question whether the federalists, as a party, ought to support Col. Burr

They intended that their deliberations should be secret and confidential; but one or two Burr-ites were concealed in a bed room adjoining the dining room where the federalists were assembled, and heard and reported what passed in that assemblage. A correspondent of the *Morning Chronicle*, under date of the 17th of February, writes, that "last night the leading federal gentlemen in this place had a meeting at the city tavern. Gen. Hamilton addressed the meeting with his usual eloquence, and pointed out the expediency of the federal party's voting for Chancellor Lansing, in case they had no candidate of their own. The principal part of his speech went to show that no reliance ought to be placed on Mr. Burr." Notwithstanding this opposition the great body of the federalists manifested a determination to cast their votes for Burr; and Gaylord Griswold, then a member of congress from Herkimer county, wrote a letter which was published, in which he urged his friends to support Mr. Burr as the only means of breaking down the democratic party, and charged the opposition of Gen. Hamilton to "personal resentment towards Burr." This letter bore date the 27th of February.

The contest terminated in the election of Judge Lewis by a large majority; I believe about eight thousand.

Mr. Burr undoubtedly received a very considerable number of republican votes; he must have failed in consequence of the defection of a portion of the federal party. No doubt many federalists entertained an honest opinion similar to that expressed by Gen. Hamilton, that Mr. Burr was an unprincipled man, and that no reliance could be placed on him. They, therefore, could not reconcile it to their consciences to yield their aid to his support for the first and most important office in the state. It is however probable that a larger portion of that party had become convinced that the federalists, as a party, had no

prospect of gaining a permanent ascendancy in the state, and especially in the nation; that, even if Burr should be successful at that election, his triumph would be momentary, and they therefore seized the occasion of abandoning a broken down, and as they deemed, a ruined party. The result of the canvass showed, on a comparison with the senatorial election of 1803, that the republican party had gained as many recruits from the federal ranks as they had lost by the desertion of their own friends who voted for Mr. Burr; and this will generally be found to be the consequence resulting from this weak and puerile policy.

The result of the election for members of the legislature was also favorable to the regular republican party. In the assembly that party had a large majority. The senators elected this year were Ebenezer Purdy and Thomas Thomas from the southern; Samuel Brewster and Stephen Hogeboom from the middle; Stephen Thomas from the eastern, and Jedediah Peck and Henry Huntington from the western districts; all understood to belong to the same party who supported Mr. Lewis.

DANIEL D. TOMPKINS was at this election chosen a member of congress from the city of New-York.

## CHAPTER IX.

FROM MAY 1, 1804, TO MAY 1, 1804.

THE result of the New-York election had entirely prostrated the political prospects of Col. Burr. He was irrevocably cast off from the republican party in the nation; and the event of the contest in this state had proved that his friends were not sufficiently numerous when connected with the federalists, or so many of them as would join his standard, to sustain him here. Should the federalists as a party ever gain the ascendancy, the prospect of which was extremely unpromising, he knew by what had recently occurred, that he would have no hopes of promotion from that party. His political fortunes therefore seemed totally wrecked and irretrievably ruined. In reflecting upon the cause of that ruin, he undoubtedly regarded Gen. Hamilton as the principal agent in effecting it. If at any time he had expected the aid of the federal members of congress to elect him president in preference to Mr. Jefferson, he had there met the opposition of Mr. Hamilton; for on that occasion Mr. Bayard of Delaware, and Mr. Morris of Vermont, two of Mr. H.'s friends, had given the election to Mr. Jefferson. In the late contest, when his political life was at stake, the same opponent had there stood in his way; and to his denunciation and great and commanding influence, Mr. Burr charged the defection and desertion of so large a portion of federalists from their party. These considerations must have produced in the gloomy and despairing mind of Col. Burr a settled determination that he would have revenge—a revenge that nothing short of the life of Hamilton would satiate. It is impossible for me to account for the



MORGAN LEWIS.

*P. Michels Lith. N. Y.*





duel which took place after this election, between Burr and Hamilton, upon any other principle. It is true, that had the answer of Gen. Hamilton to the first communication of Burr been more guarded and more conciliatory in its tone and manner, it might have put Burr more clearly in the wrong, and furnished positive and decisive evidence that from the commencement he premeditated and determined on a mortal contest. But he knew that Gen. Hamilton from his youth, had been a military man, and that he was sensitively alive to his honor as a soldier; and a careful review of the correspondence as it was actually conducted, will convince all candid men that Burr, when he wrote the first note, was resolved that the issue should be nothing less than the death of one of the parties.

The ground on which Col. Burr founded his cause of offence was purely technical. Doct. Charles D. Cooper, who lived in the family of Judge Tayler of Albany, and married his adopted daughter, was warmly and actively engaged as a partisan, in the electioneering campaign between Burr and Lewis.

While Hamilton was attending the supreme court in the preceding February term, he had dined at Judge Tayler's; and in conversation on that occasion, had expressed himself against the election of Col. Burr as governor. He spoke of Col. Burr's political conduct and principles only, to which, on that, as on all other occasions, he declared himself hostile. Doct. Cooper believing that the opinions of Gen. Hamilton might have an effect favorable to the election of Mr. Lewis, wrote an electioneering letter to Mr. Brown, who lived in one of the country towns of the county of Albany. I suppose in the haste with which such letters are commonly written, he stated that Gen. Hamilton was openly and decidedly opposed to Burr, and that Judge Kent and the Patroon were indifferent and cold towards him.. This

statement was in part contradicted by a letter written by Gen. Schuyler to Doct. Stringer, chairman of the federal committee, in which Gen. S. stated that Mr. Hamilton and Judge Kent had not stated that they were against Burr on the question as between him and Lewis; but merely that they preferred Chancellor Lansing to Col. Burr. On the 23d of April, Doct. Cooper replied to Gen. Schuyler's letter, and reiterated the assertions contained in his letter to Brown. He affirms that Hamilton and Kent both considered Burr "as a dangerous man, who ought not to be trusted with the reins of government," and then adds that he "could detail a still more *despicable* opinion," which Hamilton had expressed of Burr. Now it is well known to those acquainted with the manner in which political letters are written near the morning of an excited election, that the writers of those letters are not very particular in the choice of words to convey their ideas. The meaning of Doct. Cooper undoubtedly was, "Hamilton and Kent both consider Burr, politically, as a dangerous man and unfit for the office of governor, and Hamilton has expressed his opposition to Burr's election in terms still more decided." This every man who read Cooper's letter understood to be his real meaning, and in this way Col. Burr must have understood it. He chose, however, to fasten on the word "*despicable*," and consider that, as perhaps it technically was, offensive. In his first note to Gen. Hamilton, he without preface demands of him "a prompt and unqualified acknowledgment or denial of having said any thing which warranted such an expression." This note bore date the 18th July. On the 20th Gen. Hamilton replied, declining an express admission or denial, alleging that the charge was too vague and indefinite; and denying the right of Col. Burr to interrogate him as to what he had said; but declaring his readiness to avow or deny any declarations which Col. Burr would

specifically point out. He concludes by saying "I trust on further reflection you will see the matter in the same light with me. If not, I can only regret the circumstance and *must abide the consequences.*" Now, without being learned in the law of duelling, it strikes me that Mr. Hamilton might, without degrading himself, have stated that he had made no declarations in presence of Dr. Cooper, impeaching Col. Burr's private character or his honor as a gentleman, but that his remarks were entirely of a political nature, and thus to have invited Col. Burr to specify.

The reply of Col. Burr was acrid and offensive. After Gen. Hamilton had replied to the second letter of Col. Burr, he put into the hands of Mr. Pendleton, (his friend,) a paper to be communicated to Col. Burr, in which he stated, that in answer to a letter properly adapted to obtain from him a declaration whether he had charged Col. Burr with any particular instance of dishonorable conduct or had impeached his private character, either in the conversation alluded to by Doct. Cooper, or in any other particular *instance to be specified*, he would be able to answer, consistently with his honor and the truth, "that the conversation, to which Doct. Cooper alluded, turned wholly on political topics and did not attribute to Col. Burr any instance of dishonorable conduct, nor relate to his private character; and in relation to any other language or conversation of Gen. Hamilton, which Col. Burr will specify, a prompt and frank avowal or denial will be given." This declaration, it appears to me, entirely removed the cause of the alleged offence, and had not Col. Burr been determined on a combat, which in all probability would be fatal to one of the parties, would have put an end to the controversy. Col. Burr, however, declared that he considered this proposition "a mere evasion," and persisted in his demand for satisfaction. Any person de-

desirous of examining the whole correspondence will find it in 2 *Davis's Burr*, 296 to 316. It was conducted, on the part of Col. Burr, by his friend and second, Wm. P. Van Ness, and with his usual superior ability. Judging from the style I should think the two notes signed by Mr. Burr were also written by Mr. Van Ness. How far the dark and malignant spirit of that talented man may have aided in producing this melancholy affair is, and always will remain, unknown. The issue of the correspondence, the meeting and its melancholy and fatal consequences, are too well known to require to be repeated.\*

The recollection of Gen Hamilton's revolutionary services—his transcendent talents—his private worth—the amiable frankness of his nature, and the integrity of his heart, connected with his sudden, unexpected and violent death, produced a sensation among all ranks of society, and all parties in New-York, more universal than was ever before, or has since been excited. The lamentations for Hamilton had the effect of politically sinking Col. Burr below that "lowest deep" in which the last election had cast him. From the moment Hamilton fell, Burr was politically as dead as he now is naturally.

By the retirement of Gov. Jay and the death of Gen. Hamilton, the federalists of New-York were left without any acknowledged leader.

Gov. Lewis convened the council of appointment immediately after his inauguration. His election to the office of governor had left a vacancy on the supreme court bench. Judge Kent was promoted to the office of chief justice and *Daniel D Tompkins* was appointed a judge. At the time of his appointment he must have been about thirty years old. It is somewhat singular that so

\* I have it from unquestionable authority that Col. Swartwout, on the morning of the duel, called on Col. Burr and found him in a sound sleep.

That Burr was a man of great personal courage there can be no doubt.

young a man should have been appointed to an office so highly important; but it may be remarked that the senior members of the bar, whose age and talents had enabled them to acquire any considerable reputation, were nearly all federalists; and it was not and is not the fashion to confer important offices on political opponents. Mr. Tompkins was a young man of fair reputation, and exceedingly prepossessing and popular manners. He had lately been elected a member of congress from the city of New-York, a circumstance which, considering his youth, afforded evidence of the high opinion which those who knew him best had formed of him. On the same day the council removed Peter B. Porter from the office of clerk of the county of Ontario, probably on account of his support of Col. Burr for governor, and appointed a man by the name of Tiffany in his place.

On the 10th of November, Maturin Livingston, the brother-in-law of Gov. Lewis, was appointed recorder of New-York. If we are to believe the federal newspapers, this appointment was not well received. The manners of Mr. Livingston, they alleged, were extremely unpopular. He had not been distinguished as a lawyer, and he was known to be more devoted to pleasurable amusements than to business. It was also alleged that his connexion with the governor, and not his personal merit or fitness for the proper discharge of the duties of the office, had caused his appointment.

The legislature assembled in November for the choice of presidential electors. Alexander Sheldon was again chosen speaker. The governor, in his speech, among other things, informed the legislature of the resignation of Gen. Armstrong as United States senator, in consequence of his appointment as American minister to France. The legislature, after appointing electors, chose Dr. Samuel L. Mitchell as the successor of Gen. Armstrong. Doct.

Mitchell was a learned man, and had read much. He was perfectly honest and sincere, but almost ridiculously vain. He was well acquainted with books, but knew little of men. He supported the republican party because Mr. Jefferson was its leader, and he supported Mr. Jefferson because he was a philosopher.

Very little else was done at this session except choosing a senator in congress, and electors for president.

Upon the canvass of the presidential votes given in the nation, it appeared that out of one hundred and seventy-six, Mr. Jefferson and George Clinton received them all, save fourteen which were given for Mr. Pinckney of South Carolina and Mr. King of New-York. From this canvass may be seen the prodigious increase of strength of the republican party within a very few years.

On the 22nd January, 1805, the legislature again met. It is creditable to Gov. Lewis that on the 5th day of February he sent an excellent and special message to the legislature, in which he strongly urged the importance of encouraging education, and especially of elevating the character and increasing the capacity for usefulness of common schools. He stated that the lands still owned by the state amounted to one and an half millions of acres, and he urged the appropriation of those lands to the exclusive purpose of promoting education, and chiefly in aid of common schools.

In pursuance of this recommendation, a bill was brought into the legislature, which became a law on the 2nd of April, by which the nett proceeds of the first five hundred thousand acres of land which should be sold, should be appropriated as a permanent fund for the support of common schools. The money paid for the sale of these lands was required to be loaned out on bond and mortgage by the comptroller, together with the interest, as from time to time it should be paid into the treasury, until the prin-

cipal sum should be sufficient to produce an interest of fifty thousand dollars annually, when the interest was to be annually distributed among the schools. This may be said to be the commencement of the school fund.

Judge Hobert died this year at the age of sixty-seven, leaving vacant the office of district judge for the state of New-York. Upon his death, Brockholst Livingston was appointed his successor, but he declined to accept the office. The vacancy was eventually supplied by the appointment of Matthias B. Talmadge, who probably owed his selection to the influence of the vice-president, Clinton, with whom he was connected by marriage. This appointment was an unfortunate one. Judge Talmadge never had been distinguished for his legal attainments, and he was rather indisposed to laborious application to business. These circumstances, together with the bodily indisposition with which he was affected soon after his appointment, rendered him almost useless as a public officer. The consequence was, that not many years afterwards the state of New-York was divided into two districts, northern and southern, and William P. Van Ness was appointed judge of the southern district. From this time Judge Talmadge performed very little service, although he continued to receive his salary until his death, which happened about the year 1820.

In the assembly this year, the number of federal members was less than thirty, but they had for their leader William W. Van Ness from Columbia county, a young lawyer possessing talents of high promise. He was a man naturally persuasive and eloquent, of fine intellectual powers, ardent and warm in his pursuits, ambitious and fond of distinction, extremely pleasing and fascinating in his address, both in public life and in his social intercourse; with a lively fancy and most brilliant wit; his conversational powers exceeded those of almost any other man I



ever saw. He was fond of pleasure and sensual indulgence, and has been charged with being lax in his moral principles; but if this were so, he certainly was a man who possessed much of the milk of human kindness, was ardent and frequently disinterested in his friendships, and humane and benevolent in his feelings. With these qualities, at the head of his little party, Mr. Van Ness made his influence and power considerably felt in the legislature and in the state.

Obadiah German of Chenango county, although uneducated was a bold and resolute man, of great native intellectual strength and vigor. He may be said to have stood at the head of the democratic party in the assembly during this session.

In the early part of the winter session the assembly chose for the council of appointment, John Schenck of the southern, Joshua H. Brett of the middle, Jedediah Peck of the western, and Stephen Thorn of the eastern districts.

Previous to the chartering of the State Bank in 1803, a company of gentlemen, principally merchants in New-York, had associated by articles of partnership, said to have been drawn by Gen. Hamilton, as a joint stock company, under the name of the president, directors and company of the *Merchant's Bank*. A similar company was formed in Albany about the same time, called the "Mercantile Company." When the State Bank company was chartered, the Merchant's Bank company also applied for the like grant, and it is said, that some of the persons interested in the State Bank, promised these applicants their support; but the question having been taken on the State Bank charter, and the bill incorporating that bank having passed into a law, the State Bank now opposed them, and the application of the Merchant's Bank company, was unsuccessful. In 1804,

the company again applied and were again unsuccessful. Mr. De Witt Clinton, and those interested in the Manhattan company, which had then become a favorite republican institution, were very active in resisting the application of this association of merchants.

The legislature of 1804, did not content themselves by merely refusing to grant a charter to this company, but on the 11th day of April, they passed an act restraining banking by all unincorporated companies under severe penalties, and declaring all notes or other securities for the payment of money to such unincorporated companies absolutely void; but they by this act provided that the Mercantile company in Albany, and the Merchant's Bank in New-York should have until the first Tuesday of May, 1805, to close their concerns. If after that day, they attempted to transact banking business they were to be subjected to all the penalties of other unchartered companies.

The Merchant's Bank company at the session of 1805, made another great and vigorous effort to obtain a charter. It is not my intention here to detail the facts in relation to this application, further than to state, that it was originally opposed by the American Citizen and Albany Register, on party grounds, not because the chartering of this bank would be prejudicial to the public interest, but because the applicants were principally federalists. Eventually, it is true, it appeared that the company did resort to vile and corrupt means to obtain their ends. It was proved that several members of the legislature had been tampered with, and Judge Purdy, who introduced in the senate the bill to incorporate the company, finally was compelled to resign his seat to avoid expulsion for bribery. Mr. Maturin Livingston was sent to Albany by the republicans of New-York, to oppose the charter; but in two days after his arrival in Albany, changed his position and

became its ardent supporter. Gov. Lewis was in favor of incorporating the company. His reasons, as he stated them, were, that the company had commenced banking when by law they had a right so to do, that under the faith of the existing law they had invested a large capital, had erected buildings and incurred other expenses, and that inasmuch as the exercise of banking powers by the company, would not, in his judgment, be prejudicial to the public interest, the legislature upon principles of common justice ought to charter the company or so modify the restraining law as to render it inapplicable to them. No one, I believe, ever charged Mr. Lewis with acting from corrupt motives. His reasons, in the abstract, and aside from the improper conduct of the applicants, appear to me sound and satisfactory; and yet there can be no doubt that the opposition to him which was led on by Mr. Clinton and Judge Spencer, was originally, certainly it was ostensibly, founded upon his declarations in favor of this bank, an opposition which ultimately resulted in his political ruin at least for the time then being.

The Merchant's Bank charter finally passed both houses by a considerable majority, but in the council of revision Judge Spencer zealously protested and published his protest against the passage of the bill; he founded his protest on two grounds:

First, because the public interest did not require an increase of banks or banking capital in New-York.\*

Second, because the passage of the bill through one, if not both branches of the legislature, was procured by bribery and corruption. In illustration of this position, among other allegations he stated that, in the senate the bill passed by a vote of fourteen to twelve, that Ebenezer Purdy was bribed, that he constituted one of the four-

\* There was then only the New-York Bank and the Manhattan Bank in the great city of New-York.

teen, and if he had voted in the negative the bill would have been rejected. But the bill, notwithstanding, was approved by a majority of the council of revision, consisting of Lewis, Kent, B. Livingston, Lansing and Thompson, and became a law. No doubt, that during this session, considerable dissatisfaction was felt by the republican members of the legislature with Gov. Lewis, which was encouraged by the immediate friends of Messrs. Clinton and Spencer, but no open outbreak ensued, and the legislature adjourned at the usual time, without transacting any important business, unless the chartering of a third bank in New-York can be deemed important.

Mr. Broome having been chosen lieutenant governor, Mr. De Witt Clinton was nominated from the southern district to supply his place, and Mr. L'Hommedieu's term of service having expired, he also was nominated for a re-election from the same district.

In the address of the meeting which nominated these gentlemen, of which Gen. Bailey was chairman, they say that they have selected Mr. Clinton and Mr. L'Hommedieu as their candidates because the proceedings of the legislature in chartering the Merchant's Bank, have greatly alarmed them, and they charge the members at the last session directly with corruption. They complain of the conduct of their republican brethren in the country as being inattentive to their feelings and interest. "A new bank," say they, "has been created in our city, and its charter granted to political enemies." Absurd! as if men who happened to be federalists ought to be deprived of the right of using their money for banking purposes. —

There was a division in the republican party in respect to one of the candidates for the senate from the eastern district. Joseph C. Yates, afterwards a judge of the supreme court and governor of the state, had been nominated by the republicans of Schenectady, but Mr. Quackenboss was nominated and supported by the

Albanians. The Albany Register contended that the nomination of Mr. Yates was spurious, and that Mr. Quackenboss was the true republican candidate. That paper had a commanding influence among the republicans of the district; and it alleged, and probably truly, that a large majority of the democratic votes were cast for Quackenboss, and that the federalists generally voted for Yates.

The senators elected this year from the southern district were, De Witt Clinton and Ezra L'Homedieu, from the middle, Peter C. Adams and James G. Graham, from the eastern, Joseph C. Yates, Adam Comstock and John Veeder, and from the western Nathaniel Locke and John Nicholas.

In the assembly, there was as usual a large majority of democratic members returned. It does not appear that either the selection of candidates or the election of members, turned upon the predilection for or opposition to the continued support of Mr. Lewis as the republican candidate for governor. No doubt, the war which broke out in the succeeding winter among the members of the democratic party, was foreseen by the leaders of both sections of the republicans, but they probably perceived that the public mind was not then ripe for an open and public declaration of hostilities.

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## CHAPTER X.

FROM MAY 1, 1804, TO MAY 1, 1806.

AMONG the charges made by the republican against the federal party, perhaps the most prominent one, and that which had caused the greatest popular odium to attach itself to the latter party, was, that they were not only favorable to the principles of the British, but were in fact partial to that nation. Two circumstances had afforded some countenance to this accusation. The one was, that in all previous disputes between this government and Great Britain, in which the British charged the American government with extending undue favors to the French, with whom the English were at war, and in all controversies which had arisen in relation to the rights of these belligerents, the federalists had generally taken sides against the French and in favor of the British. The other circumstance to which I allude was, that in point of fact many more of the Tories of the revolution had attached themselves to the federalists than to the republicans. This being the state of things, the federalists of Albany, in my judgment, committed, previous to the celebration of American Independence on the fourth of July, a capital error. The common council of that city, a majority of whom were federal, passed a resolution that the Declaration of Independence should not be read as a part of the performances of the day. The alleged reason for passing the resolution was, that the reading of the declaration tended to perpetuate prejudices and hostile feelings against the British nation, when the causes of hostility had long since ceased to exist. I might remark that the reading of that document ought not, and among an intelligent people it

will not, have that effect. True, it points out in bold relief the causes of the revolutionary war, which it charges to improper acts of the British government, but that same instrument concludes with the solemn declaration that we will regard that nation as "enemies in war, in peace, FRIENDS." Why, then, should its reading perpetuate prejudices? But, without discussing or deciding in the abstract the merits or demerits of the resolution, it strikes me, that as a party movement, it was extremely impolitic. It seemed to sustain and strengthen the allegation that the federalists, as a party, were partial to Great Britain, or that they disapproved of the liberal and just sentiments contained in that document, or both.

No man will deny but that the federalists, as a body, were as sincerely and as warmly attached to this country and its civil institutions, as any other body of men; and yet, by little errors, such as the one I have mentioned, more probably, than from erroneous opinions as to the great measures which ought to be pursued by the state and nation, were they kept out of power.

Not long after the result of the election was known, the American Citizen and Albany Register began openly to take ground against Governor Lewis and those republicans who were known to be friendly to him. On the other hand, a newspaper printed in Poughkeepsie and edited by Mr. Isaac Mitchell, called the Poughkeepsie Journal, and supposed to be influenced by Doct. Tillotson, the secretary of state, assailed Mr. Clinton and Judge Spencer with much bitterness. In the course of the summer, the Morning Chronicle, the Burr paper in New-York, was discontinued; and it was alleged that it was joined with the Journal, and that thereupon a new paper was issued entitled "The Poughkeepsie Barometer."

A republican paper called the PLEBIAN, printed in Ulster county under the management of JESSE BUEL, Esq.,

afterwards editor of the Albany Argus, and state printer, came out in favor of Gov. Lewis, and of course against Mr. Clinton and his friends. In this controversy it has, I believe, generally been conceded that Mr. Clinton was the assailant. It has, at any rate, never to my knowledge been pretended that Gov. Lewis manifested any hostility to Mr. C. or his friends until they attacked him.

Was there a sufficient cause, or were there any good public reasons, why Mr. Clinton should have made war on Gov. Lewis? Had he done any act injurious to the state, or even to the republican party as such? I confess, I have looked in vain for such cause, or such act. Certainly the simple declaration of Gov. Lewis that the Merchants Bank company ought either to be chartered, or to be permitted to exercise those rights, which by the law of the land they had a right to exercise when they invested their money, was not a good cause for denouncing him. To wage war upon a public agent, who is discharging his duties wisely and faithfully, merely for the purpose of getting him out of the way and getting his place, under the pretence that you are acting for the good of a party, when no single act is designated showing that he has abandoned the principles of that party, is not patriotism: it is jacobinic proscription. Mr. Clinton himself afterwards suffered severely: bitterly indeed did he suffer, by the same course of conduct, pursued against himself. Mr. Clinton may have thought, he probably did think, Governor Lewis was personally unsuitable, and, if you please, unfit to discharge the duties of governor of this state. But, if he thought so, he should have said so, and made *that* the ground of complaint against him. But instead of this, he charged him with bad faith to the republican party, and made war, not only on him, but on all others who manifested a disposition to support him. Having gained a numerical majority of the republican



members of the legislature, he proceeded without cause, (for nothing which may be called a *cause* was assigned in the address subsequently published by Mr. Clinton and his friends,) to excommunicate Gov. Lewis from the republican church. Did not personal considerations, in some degree, influence Mr. Clinton's conduct? Did it not occur to him that if Gov. Lewis and the powerful family of the Livingstons were exiled from the republican party, his power, as the sole head of that party in the great state of New-York, would be immensely increased? Much as I esteem and venerate the man, in this I disapprove of his conduct. The only legitimate ground upon which parties can be organized, is a difference of opinion as to *measures*. All other party organizations are mere combinations for the benefit of a few to the injury of the many.

> During the summer of 1805 Mr. Clinton and his friends were not inactive. They foresaw that Mr. Lewis, in connection with the Livingston family, would be able to detach a very considerable number from the democratic party, and if such detachment should be joined by the federalists, serious apprehensions were entertained in relation to the result of the contest.

✓ The duel with Hamilton, and its lamented termination, had, in connection with the political sins of Col. Burr, entirely annihilated *him* as a politician. There were, however, a number of men in New-York, as well as in several other counties in the state, active, ardent and influential, who had supported Burr, and in consequence of that support were put *in Coventry* by the republican party. Among the most active of the Burrite faction in the state, were Col. John Swartwout, Matthew L. Davis, Peter Irving and Ezekiel Robins.

What part would this band of men take in the coming contest? Their chief had been pitted against Gov. Lewis

and been beaten. Col. Burr, they believed, had been proscribed by the republican party in consequence of his accepting aid from the federal party, and his supposed connection with them. Was it not natural, that the Burr-ites should feel inclined to prostrate Mr. Lewis by the same means with which they believed he had overcome Mr. Burr? Should the Burr-ites be influenced by these considerations, then Mr. Clinton might reasonably calculate on a reinforcement from their ranks which might, in part or whole, supply the loss which would be sustained by the desertion of the Livingston family and their friends.

It is highly probable that Mr. Clinton reasoned something in this way, for although there are various and contradictory statements, it is very certain that in the autumn of 1805 Mr. C.'s friends, and indeed Mr. Clinton himself, were in communication with the leading Burr-ites in New-York, and that the object of the negotiation was to bring the Burr-ites to act with the republicans against Gov. Lewis.

In the year 1810, a series of letters addressed to De Witt Clinton appeared in a newspaper printed in New-York, and afterwards printed in a pamphlet form under the signatures of Marcus and Philo Cato; long since avowed to be written by Matthew L. Davis. These letters charge, that in December, 1805, Mr. Levi McKean, a Burr-ite from Poughkeepsie, residing in the same village with Gen. James Talmadge, then a zealous Clintonian, arrived in New-York and called on several of his political friends, stating to them that overtures had been made "by the Clintonians to form a union with the Burr-ites." \* \* \* \* "He added that he had conversed with Gen. Bailey on the subject, and was desirous that Col. Swartwout should consent to an interview for that purpose. It was suggested," says the writer, "that as Mr. Clinton had not the power of giving offices at that moment, and thus publicly

committing himself, he should give to Col. Burr's friends *pecuniary aid* through the medium of the Manhattan Bank, of which he was a director, and from which bank they were almost totally excluded." That on the 7th of January, 1806, Mr. Swartwout received from Gen. Bailey a written note inviting him to spend an hour with him that evening.

The invitation was accepted, and Gen. Bailey, on that occasion, avowed himself to be acting as the agent of De Witt Clinton. Several other interviews between those gentlemen followed; and eventually, according to Mr. Davis, an agreement, to the purport following, was made and concluded on the 11th of January:—

*"Firstly*—That Col. Burr should be recognised by the union party, as a republican.

*"Secondly*—That the editor of the American Citizen should desist from all attacks upon him or his friends; that he should advocate the union, if it became necessary, in his paper; and that he should not defend the Burrites as *returning* to republican principles, they persisting that they never had abandoned them.

*"Thirdly*—That the friends of Col. Burr, as it respected appointments to offices of honor or profit throughout the state, should be placed on the same footing as the most favored Clintonian, and that their Burrism should never be urged as an objection to their filling those offices."

Mr. Davis, in his pamphlet, further states, that on the 24th January, Mr. Clinton himself met Col. Swartwout, Peter Irving and M. L. Davis, in the evening, at the house of Gen. Bailey; that he brought with him Mr. Ezekiel Robins, a zealous partizan of Burr; and that congratulations respecting the union mutually passed between the contracting parties. Affairs remained in this condition until the 20th February, when a meeting was held of the leading Clintonians and Burrites at Dyde's hotel, in the

vicinity of New-York, where the utmost good feeling was manifested and toasts were drank highly complimentary to the leaders of both parties. The Burrrites drank the health of Mr. Clinton, and the Clintonians toasted the anticipated union of the republican party. [See Note Q.]

Mr. Clinton denied the truth of the statement contained in the letters of Marcus. I am far from believing in the correctness of these representations. The letters were written during the time of high party excitement and for political effect. Most evidently the object of Mr. Davis, who was an ardent, and, as many say, an unscrupulous partizan, was effectually to ruin the political standing of Mr. Clinton with his republican friends. That Mr. Clinton should have stipulated for the bestowment of governmental patronage, and more especially that he should have expressly agreed that individuals, by name, should be chosen members of the legislature, (for, among other things, it was alleged that Mr. Clinton promised that Peter Townsend, a Burrrite, should be elected a member of the assembly from Orange co., and also that Levi Mc Kean should be appointed clerk of Dutchess,) I do not believe.

Upon the appearance of these letters Mr. Clinton publicly pronounced them false and libellous, and gave notice in the newspapers that he had commenced a suit against the publisher. The defendant appeared and gave notice that he would prove the truth of all his allegations, but Mr. Clinton never brought the cause to trial.

I have stated that I do not believe *all* the allegations made by Marcus; yet I do believe that a political negotiation of some sort was commenced by Mr. Clinton and his friends with the Burrrites, and that, previous to the Dyde' supper, it was supposed to have been completed.

That Gen. Bailey was the confidential friend of Mr. Clinton, and that he had repeated interviews with Col.

Swartwout, is not denied; that immediately after these interviews a loan of eighteen thousand dollars was made by the Manhattan Bank to a distinguished Burr-ite, (for, if the allegation had been untrue its falsity might, and would have been proved by the books of the bank); that on the 24th January Mr. Clinton met Col. Swartwout and his two friends, in company with Mr. Robins, at the house of Gen. Bailey, was an assertion, which, if false, might have been disproved; and that there was a meeting at Dyde's hotel of the leaders of both parties, at which such proceedings were had as afforded evidence that the gentlemen then present believed that a cordial union had been consummated, it seems to me are facts, of the verity of which we cannot doubt.

> Until the supper at Dyde's, it would seem that the knowledge of these proceedings was confined to a very few persons; but, on the publication of the proceedings of that supper party, much indignation was felt by many republicans in the city, and on the 24th February, four days after the Dyde supper, a very numerous meeting was held at MARTLING'S LONG ROOM, at which the union and its authors were denounced in unmeasured terms. This meeting was got up by a few dissatisfied Burr-ites, and many honest and well meaning republicans; and it is highly probable that the immediate friends of Gov. Lewis exerted themselves to increase the jealousy of the republicans of Mr. Clinton and a few Clintonian leaders in the city, among whom Richard Riker and P. C. Van Wyck were conspicuous, and to fan the flame of discord and enmity among the followers of Mr. Clinton. Be this as it may, this meeting, and the materials of which it was composed, formed the nucleus of a party in the republican ranks which ultimately destroyed the political standing of Mr. Clinton with the majority of his friends. Hence his democratic opponents, for a long time afterwards, were

known in other parts of the state by the name of "MARTLING MEN." Mr. Clinton, who was then at Albany, upon being advised of these proceedings, wrote to his friend, Gen. Bailey, approving in general of the course pursued at Martling's long room, and condemning as imprudent the conduct of his friends at Dyde's. The support of the republican party, by the Burrites, he declared would be universally agreeable, but that ought not to be purchased by a promise of office.

But it is now time to return to Albany. The legislature met on the 28th January. Dr. Alexander Sheldon, of Montgomery county, was again chosen speaker, and Mr. Southwick clerk.

The governor, in his speech, among other matters, communicated to the legislature the case of Stephen Arnold, who had been convicted at a court of oyer and terminer held in Otsego county in the summer of 1805, of the murder of a child. The child had refused to spell or pronounce a certain word, and to compel it to do so Arnold had chastised it so severely as to cause its death. He was sentenced to be hanged, but on the day appointed for his execution the governor caused a reprieve to be delivered to the sheriff, being of opinion that the facts proved the culprit guilty of manslaughter and not murder. For this act Mr. Lewis was severely censured by his opponents, and considerable popular indignation was excited against him. If he committed an error that error was on the side of humanity. In my judgment it is discreditable to any party to attempt to create political capital by such means.

The legislature passed a law commuting the punishment of death in Arnold's case, for imprisonment in the state's prison for life. Some of the men who had when at home joined in the clamor against Gov. Lewis for suspending the execution of Arnold, and perhaps excited it, voted for

a commutation of his punishment. Such vote was a condemnation of themselves and a justification of the governor.

There was another part of the governor's speech which, if not more deserving of animadversion, at any rate exposed him to some degree of merited ridicule. Mr. Lewis had, during the revolutionary war, been engaged in the military service of the country, and he was fond of military bustle, parade and pageantry. During the autumn of 1805 he had in person, as commander-in-chief, inspected the militia in most of the counties in the state, and in his speech he said much about the militia and made several suggestions as to the best means of improving their discipline and martial appearance, and in the course of his address he spoke of the importance of martial music, and remarked that, "In our military equipments, there is the almost universal want of experienced drummers. *The drum is all important in the day of battle.*" We have often heard of drumming up recruits, but never of drumming off enemies or frightening them away by the sound of a drum. This sentence furnished much aliment for the wits of that day.

The governor, in his speech, alluded in a very proper manner to the difficulties between the American government and the belligerents of Europe. He expressed an apprehension that a war with one or both the belligerent powers might become inevitable, and he urged the necessity of putting the state in a posture of defence. He stated the debt due from New-York to the general government to be seven hundred and sixty-eight thousand three hundred and twenty dollars and fourteen cents, of which, according to a previous understanding, New-York had a right to expend five hundred and twenty-four thousand and sixty-six dollars and seventy cents in fortifying our harbors and other exposed points, and he invited the attention of the legislature to that subject.

In the early part of the session the assembly proceeded to elect a council of appointment, and De Witt Clinton from the southern, Robert Johnson from the middle, Adam Comstock from the eastern, and Henry Huntington from the western districts were chosen.

These gentlemen had been nominated by a general caucus of all the republican members. The friends of the governor complained that this mode of nomination was unusual; that before that time the custom was for the republican members of assembly from each district to meet and severally designate the member of the senate from their district whom they desired should be chosen a councillor; and they insisted that had such course now have been pursued, Mr. Clinton would not have been selected as the favorite candidate of the southern district. This complaint, however, does not seem to have produced much impression.

On the 31st of March, Mr. Richard Riker, a member from New-York, brought a bill into the assembly, "for the prevention of bribery," &c., by which any person who should promise, offer or give any member of either house of the legislature or council of revision, any money, goods or chattels, or chose in action, &c., with intent to influence his vote, such person should, on conviction, be fined in a sum not exceeding one thousand dollars, or imprisoned in the state prison for a term not exceeding two years. The bill also provided that any member, &c, who should give his vote in consequence of such gift or promise, should be deemed guilty of a high misdemeanor, and should, on conviction thereof, be fined &c.; and the bill was passed into a law on the seventh of April.

This salutary law was probably introduced in consequence of the exceptionable proceedings of the applicants for a charter of the Merchants Bank, the preceding session. Considering the quarter from which this bill emanated, is it



not probable that one object in introducing it, was to fasten more strongly in the public mind the odious character of that transaction, in which some of the governor's friends were implicated ?

In accordance with the same policy, Mr. Clinton had, on the 15th March, offered a resolution in the senate for the expulsion of Ebenezer Purdy, for the reason that he had been bribed, and for his attempt to bribe Stephen Thorne and Obadiah German. A day was appointed to act on the resolution, but on the day after it was offered Mr. Purdy resigned.

On the 26th March, the council of appointment commenced their operations by the removal of Maturin Livingston from the office of recorder of the city of New-York, and the appointment of Pierre C. Van Wyck in his place. They also removed Thomas Tillotson from the office of secretary of state, and appointed Elisha Jenkins his successor. Against these removals, the governor and Mr. Huntington entered their protest. Mr. Huntington was a warm personal and political friend of Mr. Clinton, but he was also a man of great moderation and prudence and altogether incapable of persecution or proscription. The removal of these officers, without any charge of official misconduct, and merely because they were connected with and supporters of the governor, appeared to him too much like persecution, and altogether inconsistent with the maxims which always governed that excellent man's conduct. The war upon the governor was now open and undisguised. It was heated and extremely virulent. In all the minor appointments, such as sheriffs, county clerks, surrogates, county judges and justices of the peace, those candidates were preferred by the council who were known to be hostile to the re-election of Gov. Lewis.

By the appointment of Mr. Jenkins secretary of state the office of comptroller was left vacant, and that vacancy

was supplied by the appointment of Archibald McIntyre, who long held the office and discharged its duties in a manner highly satisfactory and beneficial to the public, and creditable to himself.

When the dissensions between Gov. Lewis and Mr. Clinton commenced, and after they had progressed for a considerable time, the federalists looked on with apparent indifference; but no sooner was the war openly declared than they generally avowed their determination to support the governor. William W. Van Ness was one of his most zealous and efficient federal partizans. At the annual election in April, the party rallied with considerable energy, and in the counties where they were sure of a federal majority, they supported federal candidates on federal principles; in other counties, where two republican tickets were run, they supported candidates who were friendly to the governor. The governor's republican friends also made a rally, and the result was, that including federalists, a majority of the members returned to the assembly were favorable to Gov. Lewis.

In the senate, from the southern district, Benjamin Coe and Johnathan Ward were elected; from the middle, Elisha Barlow and James Burt; from the eastern, Jacob Snell, and from the western, John Ballard, Salmon Buel and Jacob Gebhard.

Eventually, the senators from the middle district, and Mr. Snell from the eastern, attached themselves to the party which supported Gov. Lewis.

## CHAPTER XI.

FROM MAY 1, 1806, TO MAY 1, 1807,

SHORTLY after the election, a circumstance occurred which showed that the Lewisites or quids, as they were called, were equally disposed with their adversaries to use the appointing power, so as to reward friends and punish opponents. The corporation election of New-York had resulted in the choice of some federalists and some Lewisites, but both classes united, constituted a majority over the Clintonians in the common council. The new board forthwith set about removing such of the Clintonians as held offices during the pleasure of the common council, for no other cause than the political opinions which they entertained, among whom was the comptroller of the city. A party character was given to nearly all the new appointments.

The republican friends of the governor, perceiving that he could not be nominated for a re-election by a majority of the democratic members of the legislature, in order to get him in the field as the candidate of a portion of the republicans, got up a meeting, on the 1st of January, 1807, in the city of New-York, of which Thomas Storm was chairman, and this meagre assembly in due form nominated Mr. Lewis as the republican candidate for governor.

Very active measures were taken to secure a sufficient number of the republican members of the assembly, chosen in April preceding, who, in conjunction with the federalists, would constitute a majority of that body; and by this means the friends of the governor hoped to be able to elect a speaker and a council of appointment, who would be favorable to his views. Circular letters were written

to all the republican members who were not known to be decided Clintonians, requesting that on their arrival in Albany they would call on the treasurer, Mr. Abraham G. Lansing, or on his son, G. Y. Lansing, Esq. who were supporters of Gov. Lewis, for the purpose of consultation. This legislature convened on the 27th of January. Of the members of assembly who were in attendance on the first day, eighteen were federalists and the residue were elected as republicans.

Andrew McCord of Orange county, was the Lewisite candidate for speaker, and Doct. Sheldon the Clintonian. Upon canvassing the votes it appeared that Mr. McCord had eleven majority. Mr. Garret Y. Lansing was elected clerk by six majority over Mr. Southwick.

The governor's speech was a very ordinary production, and seems to me inferior to his former addresses. On the second day of the session, the assembly proceeded to choose a council of appointment, and a Lewisite council was chosen.

The following was the state of the vote:—Thomas Thomas, fifty-one; James Burt, fifty-four; Edward Savage, fifty-two; John Nicholas, fifty-two; E. L'Hommedieu, forty-four; Peter C. Adams, forty-four; John Veeder, forty-three; Nathan Smith, forty-three.

The Clintonians confidently charged that Mr. William W. Van Ness was to be appointed attorney general, in consideration of the eighteen federal votes which were given, and which enabled the Lewisites to succeed in the choice of the speaker and council of appointment. It so turned out that he obtained a better office. Gen. John Smith having been elected senator of the United States to supply a vacancy, his term expired on the 4th March, 1807, and the two sections of the democratic party so far united as to re-elect him on the first day of February.

On the first day of the meeting of the new council of appointment, De Witt Clinton was removed from the Mayoralty of New-York, and Smith Thompson one of the judges of the supreme court, appointed in his place. Judge Thompson, however, wisely declined to accept the appointment, and subsequently Col. Marinus Willett was appointed to that office.

On the 16th of February, the council proceeded to remove Pierre C. Van Wyck from the office of recorder of New-York, and re-appoint Maturin Livingston, they also removed Mr. Jenkins and restored to Doct. Tillotson the office of secretary of state. Thomas Morris, a distinguished federalist, was appointed clerk of the city of New-York, and Teunis Wortman was removed to make place for him. Among other appointments in New-York, I observe that Isaac Kibbe an active Burr-rite, and afterwards notorious as a lobby member and zealous supporter of De Witt Clinton, was appointed to the office of harbor master of the city of New-York. This council exercised their power to its full extent in removing those whose political course rendered them obnoxious, and in the appointment of their own partisans.

On the evening of the very day, (the 16th February,) when the council of appointment made the removal of De Witt Clinton and the other great state officers, the majority of the republican members of the legislature met in caucus and nominated DANIEL D. TOMPKINS as their candidate for governor. It may seem unaccountable, that a person so little known in the political field, should have been selected as a candidate for the most important office in the state. It is probable that the following were some of the circumstances which led to the nomination of Mr. Tompkins.

Mr. De Witt Clinton and Judge Spencer were the only two prominent men at that time in the republican party

opposed to Gov. Lewis, who would have been much thought of for governor. The whole artillery of the Livingston party had for some time been directed towards Mr. Clinton. He was represented as exercising dictatorial authority over his party; his influence by means of his own political power and the popularity of his uncle was said to be unreasonably great, and his manners and deportment were cold, repulsive and unpopular; besides, the party opposed to Mr. Lewis, wished to alarm the jealousies of the people against the overgrown power and influence of the Livingston family, which they could not with so much advantage and effect do, if they had for their candidate a principal, though a junior member of the Clinton family.

It is not known that Judge Spencer was desirous of the nomination, and if he was, nearly the same objections existed against him as against Mr. Clinton. He had married a sister of that gentleman for his second wife, and was therefore considered one of the Clinton family, and he had for many years been considered so closely united with Mr. C. in all his movements, that in the public eye the act of one was considered the act of the other. He too, though highly esteemed as a judge, was never personally popular among the mass of the people.

Mr. Tompkins had, it is true, been but a short time before the people as a judge; but during that time he had held circuits in almost every county in the state, and was by that means personally known to a ~~very~~ many people. His appearance was extremely prepossessing, his manners highly popular, and his address was every way pleasing. And here let me remark, that there is no position in social life so favorable to acquiring the esteem and confidence of the people as that of a circuit judge of the supreme court, if his manners are fascinating and agreeable. He goes into a county where he is a stranger, and there meets at

the court house, grand and petit jurors, witnesses and spectators from almost every neighborhood in the county. The ordinary discharge of the duties of his office presents him as the friend of virtue and good order, the protector of the innocent, the detector of frauds, oppression and crime, and the minstering angel of pure and unadulterated justice. What situation in social life, in a free government, can be more favorable to the acquisition of the confidence, esteem and love of the people? To all these advantages Mr. Tompkin's added another. He had no family connections to control him, or for whom he would be desirous to provide; and his talents were not considered of such superior order as to excite the jealousy of such men as Clinton and Spencer. Indeed, I have frequently thought that these gentlemen under estimated the talents of Mr. Tompkins; and if so, it is not impossible that they might have more readily acceded to his nomination on that account, under the impression that they could more easily mould him to their purposes; and if not, that there would be no difficulty in getting rid of him.

John Broome was nominated for re-election as lieutenant governor.

The address was signed by sixty-five republican members of the legislature, being a majority of the whole number of republicans in both houses. I have carefully examined this address, and it is remarkable, that it does not set forth any ground of principle as a reason why Mr. Tompkins ought to be preferred to Mr. Lewis. Soon after this, the Lewisite republican members of the legislature held a meeting and nominated for re-election Gov. Lewis, and they nominated Thomas Storm for lieutenant governor. Their address was signed by forty-five members.

About this time Brockholst Livingston was appointed an associate judge of the supreme court of the United States, and it became a question in which the public felt

a deep interest, who should be his successor. The names of John Woodworth, Jonas Platt, and William W. Van Ness, were mentioned in the newspapers as candidates, but the council did not think it expedient at that time, nor indeed until after the general election, to act on that question. It is probable they were unwilling to make the appointment before the election, fearing on the one hand, that if they selected a federalist they should offend their republican friends, and on the other, if they appointed a republican that they would displease the federalists. To such miserable straits the fragments of parties are always liable to be driven, when their power and ascendancy depends on the action of a party to which they are in principle opposed.

I have before remarked, that the advocates of Gov. Lewis insisted that the sole cause of the opposition to him was his refusal to be subservient to the individual views of De Witt Clinton and Judge Spencer. In support of this charge, on the 6th of April, Chancellor Lansing was induced to publish the reasons which prompted him to decline the nomination of governor in 1804. It will be recollected that before the nomination of Lewis, Lansing was nominated, and accepted the nomination, but that not long after his acceptance he addressed a letter to Mr. Purdy, the chairman of the caucus which nominated him, stating, that events had occurred subsequent to his acceptance of the nomination, which had induced him to believe that he was mistaken in supposing that he, as governor, could be useful in promoting the republican interest in the state. The chancellor now informed the public what those "events" were. He stated that a few days after his nomination, in an interview with Gov. Clinton, "an attempt was made by them to induce me," (these are his words,) "to pledge myself for a particular course of conduct in the administration of the government of the



state." He adds, that he declined to give such pledge. That immediately afterwards he learned from Doct. Tillotson that Mr. Clinton had thrown out some mysterious expressions against him, and that he had read to him, (Tillotson) letters from Washington, charging the chancellor with having made stipulations with Aaron Burr. Mr. Lansing further stated, that the mode in which his nomination was announced in the Albany Register was singular, and the manner exceptionable, which he believed was premeditated and intentional, because, late in the evening before that article appeared in the Register, Judge Tayler, De Witt Clinton, the governor's private secretary and Solomon Southwick had been seen together coming out of the office of the editor of that paper. From these circumstances the chancellor inferred, that if elected governor his situation would be very uncomfortable, unless he should carry into effect the wishes and views of Mr. Clinton, Judge Spencer, Judge Tayler, and their immediate friends.

Mr. Clinton and Judge Spencer very promptly denied that they had expressed any unfavorable opinion of the chancellor, or that they had ever exhibited any letter from a Washington correspondent, containing any imputations against him; and the vice-president, by a letter written at Washington, dated 14th of April, also denied that he had attempted to induce Mr. Lansing to pledge himself, in case of his election as governor, that he would pursue any particular course other than a general republican one. To these publications and statements Chancellor Lansing replied, that after his nomination the vice-president, then governor, sent for him to call and see him, that he stated that some of his friends were suspicious of him, (the chancellor,) and in the course of the conversation Gov. Clinton remarked, that he was spoken of as likely to be chosen the next vice-president, that if Mr. Lansing should

be elected governor, the office of chancellor would be vacant, and that De Witt Clinton had been mentioned as a suitable person to fill that office. Mr. Lansing states that he replied, that in case the office of chancellor should become vacant, in his judgment the senior judicial law officer ought to be appointed to that office. On the 20th of April, Mr. De Witt Clinton again replied, that he never had any conversation about the office of chancellor in connection with himself; and that he would not accept it, if it were offered him. Some further correspondence of considerable asperity and bitterness, took place between Judge Spencer and Chancellor Lansing; but after the election nothing further was heard about the controversy.

The probability is, that there was some misunderstanding and misrecollection on both sides. We all know that it is quite impossible for men in public life to recollect with accuracy, casual conversations among friends. Nothing is more likely, and supported by Chancellor Lansing's assertion, scarcely anything can be more certain, than that Gov. George Clinton, who had long been the decided personal and political friend of Mr. Lansing, should, in conversing with him, being desirous to make a provision for his favorite nephew, have mentioned him as a fit person for the office of chancellor, and should have endeavored to prepossess the man, who it was then believed would have the power of disposing of the office, in favor of that nephew. At the same time, those who knew De Witt Clinton well in after life, will readily give him credit for sincerity, when he declared he would not take the office of chancellor if it were tendered to him. Nothing is more certain than that he was far from desiring a judicial office. Mr. Lansing had no doubt reason to believe, and did believe, that Mr. Clinton and Judge Spencer wished to be able to exercise a great influence over any state administration which they should aid in creating; and feeling

himself determined, if he accepted office, to act independent of, and uncontrolled by any one, he was jealous that they were at heart opposed to him. This view of the affair enables us, I think, to account satisfactorily for the apparent contradictory statements of the several parties without imputing intentional error to any one of them.

The temporary control by Gov. Lewis of the state patronage, was of very little use to him. Indeed, it is not improbable that it was more injurious than beneficial. A few clamorous friends in each county compelled him to make some removals, and to give his appointments a party character, in every considerable neighborhood in the state. He dared not appoint federalists, because even the appointment of a federalist to the petty office of justice of the peace, would be denounced and harped upon as an evidence that he had become a traitor to the party who had clothed him with power. A large majority of the republicans in every part of the state were opposed to him. As he would not appoint federalists nor Clintonians, the circle within which he could make the selection was extremely limited. Hence, unfit men were in many cases appointed. A comparison between the person appointed, *because he was a republican friend of the governor*, with Clintonian and federal citizens in the same neighborhood, of respected moral standing in society, talents and personal fitness for the station, was frequently very unfavorable to the office-holder; and ordinary men could hardly avoid estimating the merits of the administration by the merits of its chosen officers. The federalists, too, were disgusted with his course. Many of them, greedy for office, could not perceive the reason why they should be called on to support a governor who treated them as aliens. Others felt a hearty contempt for his timidity and want of decision of character and boldness of action. The members of his council did not always harmonize in

their views. Mr. John Nicholas, the member from the western district, had recently emigrated from Virginia to the county of Ontario. He had, while he resided in Virginia, been a member of the house of representatives of the United States from that state, and acquired a respectable standing in that body; but in New-York he was a stranger, and it was impossible for him to understand all the sinuosities of New-York politics. He was for a straight forward, open course, and for treating all supporters of the state administration, whether republicans or federalists, alike.

Mr. Edward Savage was strongly prejudiced in favor of the old republican party, of which he had since the adoption of the United States constitution been a uniform member. I can have no doubt his support of Gov. Lewis was from pure and conscientious motives, and yet he was complained of, as acting from selfish views. He was, I believe, himself surrogate of the county of Washington; his son John, the late chief justice, was district attorney for the counties of Washington, Clinton, &c. He (the son,) was a law partner of John Crary, Esq., and Mr. Savage procured the removal of Mr. Sheppard, the clerk of Washington county, and the appointment of Mr. Crary in his place. Thus three of the best offices in that large and respectable county, were secured between the member of the council, his son, and his son's partner in business. This accumulation of state patronage naturally excited some disgust in that part of the state.†

Mr. Burt was a shrewd, adroit man, and probably a better manager than either of the other members; but of his particular views, I am not advised. In addition to the difficulties I have mentioned, which Mr. Lewis and his friends had to encounter, it was apparent that the great mass of the republican party were against him, and calculating federalists as well as republicans foresaw that the

† See Note H.

question would ultimately be between the federal and republican parties, and from the strength of the latter party in the state, aided as it was, by the popularity and patronage of the general government, little doubt could be entertained of what the final result of such a contest would be in this state. Hence, many federalists seized the opportunity, under various pretences, to desert from their former political associates, and connect themselves with a political party whose fortunes seemed to promise better. The change from a federalist to a republican was easily to be effected. A federalist need do nothing but proclaim himself an opponent to Gov. Lewis, and he was instantly declared by the fathers of the church "a genuine republican."

The election terminated as might have been anticipated. Mr. Tompkins was elected, by a less majority than Lewis obtained over Burr. Mr. T.'s majority was four thousand and eighty-five.

The senators chosen at this election, were De Witt Clinton from the southern district, Robert Williams and Joshua H. Brett from the middle, John Tayler, John McLean, Charles Selden, and Isaac Kellogg from the eastern, and William Floyd and Alexander Rhæe from the western. All the senators elected were republican Clintonians, except Messrs. Williams and Brett from the middle district, who were Lewisites.

In order to close the account of the administration of Gov. Lewis, I may as well mention in this place, that Gov. Lewis met the council of appointment on the ninth day of June, for the purpose of appointing a judge of the supreme court. The council were still divided in relation to the proper candidate. If reports were correct no two of them agreed on their man.

Mr. Nicholas was, as was said, for Jonas Platt, Mr. Savage for John Woodworth, Mr. Burt for Van Ness, and

Mr. Thomas for Maturin Livingston. It was said that the governor, true to the interest of his family, agreed with Mr. Thomas. It is very probable that the federalists, apprehending that a division of their influence between Van Ness and Platt might result in the appointment of either Woodworth or Livingston, were, by means of the address and importunity of Mr. Burt, aided by Mr. Van Ness himself, induced to give up Mr. Platt, and exert the whole weight of their influence in favor of Van Ness. He was appointed. Of his character and talents I have already spoken.

In looking back to the year 1800, one cannot help being struck with the reflection, that the great federal party in the state were overthrown by the united exertions of the Clintons, Livingstons, and Aaron Burr; that Burr was prostrated by the joint efforts of the Clintons and Livingstons, and that shortly afterwards the Clintons and Livingstons fell out, and the Livingstons were overcome by the Clintons. This view cannot fail to remind us of the military fortune of the celebrated Roman Triumvirate, and the destruction of Lepidus by the joint arms of Anthony and Augustus, and the final overthrow of Anthony by Augustus.

But although the present victory elevated Mr. Clinton to the very pinnacle of political power in the state, yet the means by which he obtained the victory, the principles, or rather the want of principle, which induced him and his coadjutors to act in the contest, and the enemies he made during this struggle, when added to those produced by the controversy with Aaron Burr, combined with the envy excited by his elevated political position and supposed influence, seriously checked his advancement, and for a time threatened his utter and irretrievable ruin.

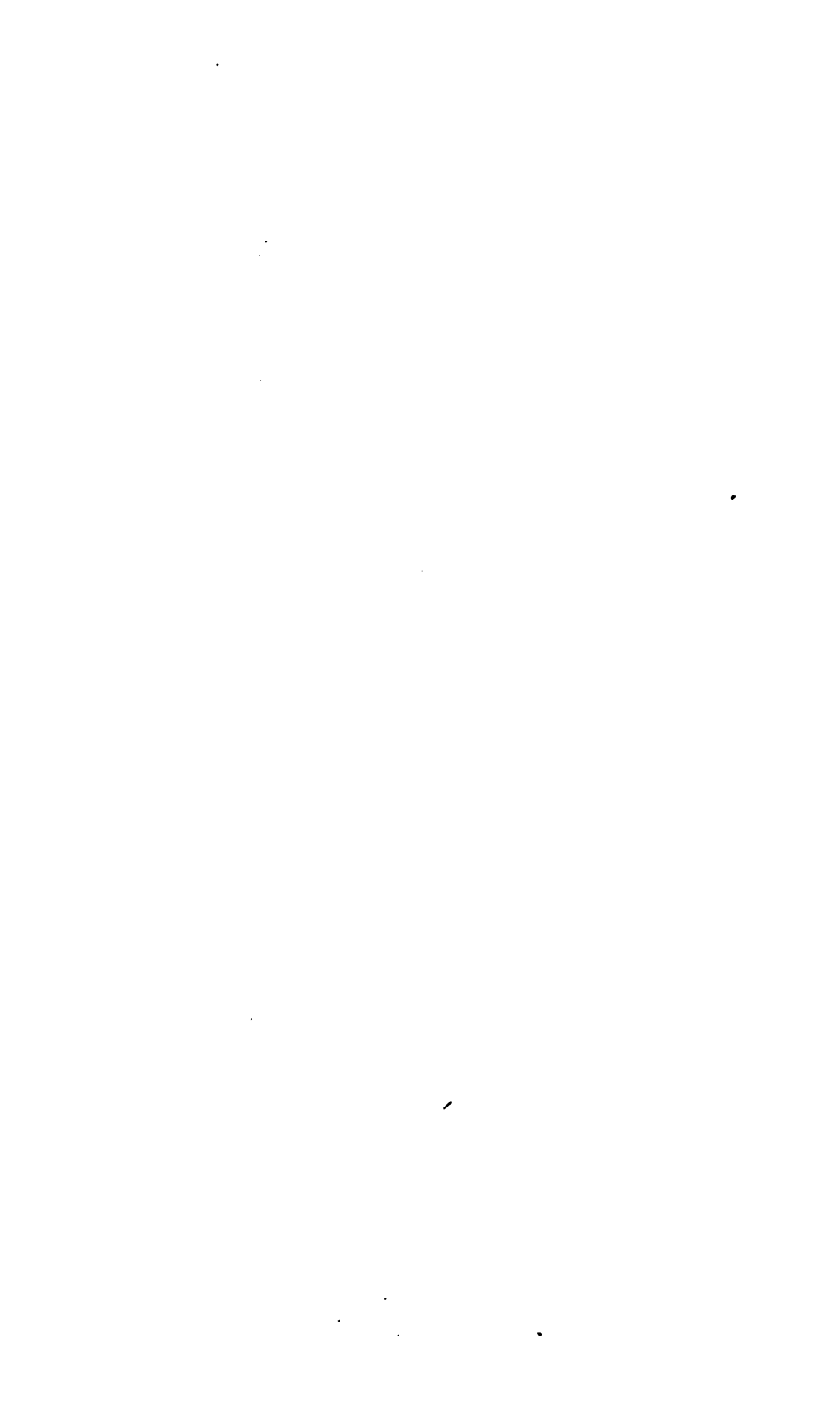
## CHAPTER XII.

FROM MAY 1, 1807, TO MAY 1, 1808.

IN the latter part of the month of May, 1807, Col. Burr was brought before chief justice Marshall, at Richmond in Virginia, on a charge of misdemeanor, and also of treason against the United States. [See Note R.]

Although not expressly within the plan of these sketches, yet as Mr. Burr was, for a considerable period of time, a distinguished political partizan of this state, I shall present a very succinct, but I fear, imperfect view of the singular transactions in which he was the principal actor, and which caused his arrest and trial. After his duel with Gen. Hamilton, and after the term of his office as vice-president had expired, he seemed to be left alone, and abandoned by all political parties.

The state of public feeling in New-York was such, after the death of Hamilton, that his presence in that city could not be endured. In New-Jersey he had been indicted by a grand jury for murder. Thus situated, his ambitious, active and restless spirit rendered his condition intolerable to himself. On the 22nd March, but a few days after he left forever the presidency of the United States senate, he wrote to his son-in-law, Mr. Joseph Alston, that he "was under ostracism. In New-York," said he, "I am to be disfranchised, and in New-Jersey to be hanged. Having substantial objections to both, I shall not, for the present, hazard either, but shall *seek another country*." Accordingly, early in May, he left Philadelphia for the western country, and arrived at Lexington, in Kentucky, on the 20th of that month. After travelling with great rapidity through that state, he directed his course to Nashville, in







DAVID TOMPKINS.

*W. H. Woodcut 1848*

Tennessee, and from thence he journeyed through the woods to Natchez. From Natchez he went by land to New-Orleans, where he arrived on the 25th June, 1805. At that time, Gen. Wilkinson was in that city, or in its neighborhood, and commanded the United States troops stationed there. It does not appear that he remained long in New-Orleans, but soon again returned to Lexington, in Kentucky, by the way of Nashville. He was at Cincinnati, and at several places in Ohio, but in a very short time made his appearance at St. Louis, in Missouri, and from thence he travelled to Washington, at which place he arrived on the 29th day of November. These immense journeys he performed in a little more than six months; before the great western rivers were rendered navigable by steam, and when the roads were badly constructed; and through a considerable part of the country traversed by him there were no roads at all. His movements were veiled in mystery, and all men wondered what could be the motive which induced these extraordinary journeys. From January, 1806, to the month of August following, he spent his time principally in Washington and Philadelphia; but, in the month of August, he again set his face towards the west, and was soon afterwards found in Kentucky.

About this time boats were provided, provisions and munitions of war were collected, and men were gathering at different points on the Ohio and Cumberland rivers. Government now began to be alarmed. Mr. Tiffin, governor of Ohio, under the advice of the president, (Jefferson,) seized the boats and their cargo, and Burr was arrested in Kentucky; but no sufficient proof appearing against him he was discharged.

On the 23d January, 1807, Mr. Jefferson sent a message to congress, accompanied by several affidavits, in which he gave the history of Burr's transactions, so far as

they had come to the knowledge of the administration. The message stated that, on the 21st of October, Gen. Wilkinson wrote to the president that, from a letter he had received from Burr, he had ascertained that his objects were, a severance of the union on the line of the Allegany mountains, an attack upon Mexico, and the establishment of an independent government in Mexico, of which Burr was to be the head. That to cover his movements, he had purchased, or pretended to have purchased, of one Lynch, a tract of country claimed by Baron Bastiop, lying near Natchitoches, on which he proposed to make a settlement. That he had found, by the proceedings of the governor and people of Ohio and Kentucky, that the western people were not prepared to join him; but notwithstanding, there was reason to believe, that he intended, with what force he could collect, to attack New-Orleans, get the control of the funds of the bank, seize upon the military and naval stores which might be found there, and then proceed against Mexico. The president assured congress that there was no reason to apprehend that any foreign power would aid Col. Burr.

A considerable part of the evidence going to show that Burr entertained criminal designs, depended on the affidavit of Wilkinson. It is not my intention to examine into the proofs of the guilt or innocence of Burr, further than to remark, that from the character of the vain, vamping and unprincipled Wilkinson, as before and since developed, no dependance can safely be placed upon his statements, unless supported by strong circumstances, or other evidence; and I believe it will not at this day be doubted, that if Burr plotted treason, Wilkinson, in the first instance, agreed to be his accomplice; that, as their operations progressed, he began seriously to doubt of success, and then communicated his knowledge of the affair to the government, in order to save himself, and perhaps obtain

a reward; and that he falsely represented to the president that he had feigned a partial acquiescence in the schemes of Burr, for the purpose of preventing the execution of his projects. That Burr himself was deceived by Wilkinson, there can be no doubt, for had he not been confident Wilkinson would act with him, would he have sent a letter to him in cypher, by Swartwout, of the tenor of the one produced by Wilkinson before the grand jury at Richmond? But there was other evidence besides that of Wilkinson, against Burr, which has never been explained. His extensive and hurried journies, in the summer of 1805; his preparation of boats, munitions of war, and provisions; his enlistment of men, and the letter in cypher which he sent to Wilkinson; what were they for? If his object was merely an attack upon Mexico, why did he not openly avow it, when charged and indicted for treason against his country? The one, he knew, was comparatively a slight misdemeanor, the other, the highest crime known to the law. Again, unless Col. William Eaton, the man who had then recently, so gallantly distinguished himself on the Barbary coasts, has perjured himself, Burr did form a treasonable plot against his country. Col. Eaton, on the 26th January, deposed, in open court, held before Judge Cranch and others, at Washington, that during the preceding winter, (1806,) Burr called upon him, and, in the first instance, represented, that he was employed by the government to raise a military force to attack the Spanish Provinces in North America, and invited Eaton to take a command in the expedition; that Eaton, being a restless, enterprising man, readily acceded to the proposal; that Burr made frequent calls upon him, and in his subsequent interviews complained of the inefficiency and timidity of the government, and, eventually, fully developed his project; which was to separate the western states from the union, and establish himself as

sovereign of the country; that measures were forthwith to be taken for the conquest of Mexico; that the control of the Mexican mines would allure to his standard a host of gallant and enterprising spirits, both of the old and the new world; and that Gen. Wilkinson was engaged in the plot, and was to join him with the troops under his command. According to Eaton, Burr further stated, that if he could gain over the marine corps, "and secure Truxton, Preble and Decatur, he would turn congress neck and heels out of doors, assassinate the president, seize on the treasury, and declare himself the Protector of an energetic government;" and he solicited Eaton to endeavor to persuade Preble and Decatur to join in the enterprise. Burr did not succeed in collecting and organizing a force on the western waters; but, on the 1st day of March, he was discovered wandering alone in the Tombigbee country, near the line of Florida, by a man named Perkins, who found him in the evening at a little tavern. Perkins, at first, was not certain that the stranger with whom he came in contact, was Burr, but, on being satisfied that such was the fact, procured a subordinate officer, who happened to be stationed there, and a file of seven men, who arrested the western Emperor, and conveyed him to Richmond.

The trial of the indictment against Burr, for treason, occupied many weeks, but he was finally acquitted by the jury, without swearing any witnesses in his defence. The acquittal seems to have been on technical grounds. To convict of treason, proof must not only be made of a treasonable plot, *but of an overt act*, and that act must be proved by at least two credible witnesses. The overt act proved, was an assemblage of men at Blannerhassett's Island in the Ohio river; but it was not proved that Col Burr was present at that assemblage. This evidence, according to the view of the court, was not sufficient to convict him of an overt act, within the meaning of the

constitution, and thereupon the jury found this extraordinary verdict, which they refused to modify:—

We, the jury, say that Aaron Burr is not proved to be guilty, *under this indictment*, by any evidence submitted to us. We, *therefore*, find him not guilty.” (*See 2 Davis*, 384.)

After his acquittal, Col. Burr appears still to have persevered in the project of making an effort to detach Mexico from the Spanish government.

On the 7th of June, 1808, he sailed from New-York for Europe, it would seem in the hope of engaging the British government, to fit out an expedition against Mexico, in which he would take a part. In this he was entirely unsuccessful. His application to the French government was equally vain and useless. He spent four years wandering about in Europe. Very little attention was paid to him, and, at times, he was reduced to the greatest extremity of poverty and wretchedness. On the 8th June, 1812, precisely four years and one day from the time he left New-York, he again landed in that city. Deserted by his friends, destitute of the means of living, loaded with heavy debts, and enervated by age, he opened a law office, as his only means of procuring his daily bread. But other, and more appalling misfortunes awaited him. He had been in New-York but a few days, when he received the news of the death of Aaron Burr Alston, the only child of his only daughter. Even this melancholy event did not terminate his calamities. A short time after the tidings of his grandson's death was communicated to him, his daughter, Mrs. Alston, who seems, from her letters which have been published, to have been a superior woman, anxious to see and embrace her father, on the 31st day of December, sailed as a passenger in a schooner from Charleston, for New-York, which was lost on its passage, and every soul on board perished. Col. Burr

was now in his old age, deprived of character, steeped in poverty, and the only human beings to whom he could feel the least tender affection, were snatched from him by death. He was left alone in the world—his cup of calamities was full. I was going to say, the strongest evidence I have, that he was a great man, is, that he did not sink under this accumulation of his misfortunes—this utter wreck of human hopes. Was it strength of mind or insensibility which prevented it? Be this as it may, he did live; he followed his profession, and mingled in society for more than twenty years afterwards. He died on the 14th September, 1836, in the eighty-first year of his age.

Col. Burr possessed several traits of character quite peculiar. One was, an utter indifference to public opinion. Mr. Davis, (2 *Davis*, 379, in a note,) says, that a short time before his death, and when that event was daily expected, after informing him that his death was hourly expected by his physician, he asked Col. Burr whether, at any time, he had contemplated a separation of the union? To which, he replied, "No, I would as soon have thought of taking possession of the moon, and informing my friends that I intended to divide it among them." But if he was sincere in that declaration, why did he not furnish Mr. Davis, who, he probably knew, would write his biography, with some satisfactory explanation of his western expedition? Why did he not give an account of the reasons of his negotiations with Wilkinson, and his object in writing to him the letter in cypher? The biography of Davis, leaves the question, as to the real motives of Burr, as much in the dark as it was when his trial closed at Richmond; where the jury, who heard the whole of the case, evidently arrived at the conclusion that Col. Burr, if not technically, was morally guilty of treason.

Col. Burr seems, through his whole life, to have taken pains to envelope all his political conduct in mystery.

He was one of those kind of men, who, if he had a given end to accomplish, preferred the accomplishment of that end by indirect, rather than direct means. Many parts of his life afford proof of even an affectation of intrigue and mystery, which, instead of being evidence of a great, is evidence of a weak and little mind. It was an invariable maxim with him, never to commit any thing on politics to writing. So rigid was his regard to this rule, that, according to Mr. Davis, he would not, in writing to his wife, utter a word on political subjects. Why should not a man commit to writing his political views, and the principles of his political action? What has an honest man to fear from it? The reasons which induced Col. Burr to adopt this rule of conduct could not have been founded either on patriotism or integrity. That he was a man of great personal bravery there is no doubt. With respect to his talents there is more difficulty in arriving at a satisfactory conclusion.

We cannot test the powers of his mind by his writings. He has left nothing, except the letters written by him to his wife, daughter, and son-in-law. These letters are written in an easy, familiar style, and are perfectly suitable and proper to the connection existing between the writer and those to whom the letters were addressed. He never touches upon any serious or grave topic, either religious, political, or philosophical; yet they are still of that kind which are perfectly proper to be addressed by a husband to his wife, or by a parent to his children. They contain no evidence but that they were written by a man of a high order of intellect, nor but that they might have been written by the most common and ordinary educated man, acquainted with life. Of course, no opinion can be formed of the talents of Mr. Burr from the writings he has left.

But, from the year 1783, to the year 1800, Col. Burr was in pretty full practice as a counsellor at law, and



from 1812, to within a year or two before his death, he also generally attended the superior courts of this state.

It is certain, that during the first period of his practice, he had a high standing at the bar. To have been viewed by the public as the rival of Gen. Hamilton, may, of itself, be considered as evidence of great legal learning and talent; and yet, it must not be forgotten that there were, during that period, but few democratic lawyers of eminence in the city of New-York, and that political partialities may have contributed something towards assigning to Col. Burr the position which he held. There are gentlemen now living, who heard him during his best days, who do not speak of him as having deserved the reputation of a profound, learned and able forensic debater. "Burr," says Mr. John Van Ness Yates, in a note to Thurlow Weed, written at the request, I presume, of Mr. Davis, "was persuasive and imaginative. He first enslaved the heart, then led captive the head. Hamilton addressed himself to the *head* only."

These remarks of Mr. Yates were called forth by a request, coming, I presume, originally from Mr. Davis, that he would furnish the notes taken by his father, chief justice Yates, of the argument of Burr, in the celebrated case of Gouverneur and Kemble. The copy of the notes of the chief justice, as given by Mr. Yates, reads as follows:—(*See 2 Davis, 21.*)

"Burr for Plaintiff.—I. The great principles of commercial law which apply to this case are"—then follows a hiatus of some lines, after which, as follows:

"II. The Plaintiff"—another hiatus,

"III." (!!!)

This concludes, says Mr. Yates, all I can find. Mr. Yates adds, that his father's notes of Gen. Hamilton's argument are very copious. Whether the eloquence of Col. Burr was so fascinating and astounding as deprived the

judge of the power of taking notes, or whether his arguments were so immethodical and desultory that the learned judge thought it not worth his while to attempt to follow him, we are left to conjecture.

As respects the evidence of talents, as an advocate, afforded by Col. Burr, after his return from Europe, I can speak with more confidence. From the year 1812, to the time of his death, he never made a speech in any of our courts, which can, with propriety, be called an argument. In the last period of his professional life he cannot, therefore, be said to have merited, and indeed he did not acquire, a standing above mediocrity. He seemed to labor more to gain advantages by the meshes of technical rules of practice, by contrivance and trick, than to succeed by meeting his opponent fairly in the field, and elaborately discussing the merits of his case. I am quite sure that in this statement I shall be sustained by every member of the New-York bar, who was acquainted with Col. Burr. The conclusion to which I have arrived, is, that in no period of his life could he have been a learned lawyer, or a profound, clear and logical reasoner.

The evidence which he afforded of talents as a politician and statesman, is equally unsatisfactory. Neither in the legislature of this state, nor in the senate of the United States, did he ever originate any great measure, nor can I find that he, at any time, distinguished himself in discussing any important question raised by others. His efforts to obtain the gubernatorial chair of this state, and the presidency of the United States, and more especially the latter, I have before had occasion to show, independent of all questions of principle, were ill judged, and not well adapted to the accomplishment of the end he must have had in view. In the project of his western expedition, whatever his object was, that is, whether he intended an attack on Mexico, or whether he contemplated a division

of the union, he gave equal evidence of a want of a sound and discriminating judgment, in providing means adapted to the accomplishment of his end.

It does not appear that he had the least prospect of any foreign aid. He attempted in broad day, with the eyes of an intelligent community upon him, to raise troops and collect munitions of war, either to commit hostilities upon a neighboring power with whom we were at peace, or make war on his own government. He must have known he could not move at all in such an enterprise without the cordial aid of Wilkinson. Considering the known character of that man, no discreet person would have done a single act rendering himself accountable until Wilkinson had committed himself in such a way as he could not recede. Instead of which, Burr himself admits that he, the great magician, was deceived by this weak, windy, blustering bragadocia. This single fact is evidence that Burr did not know men so well as he claimed to know them, and that he was utterly unfit to conduct such an enterprise. The explosion of his plot and the facility with which it was suppressed, in spite of his petty and puerile efforts to carry it into effect; and his capture by a subaltern officer and seven men, furnish a just and proper comment on the ability with which it was contrived and attempted to be executed.

On the whole, my conclusion is, that Aaron Burr was a man of imposing and fascinating manners, rapid and quick perceptions, possessed of an uncommon share of cunning, ambitious, imaginative and reckless about the means he employed to accomplish his ends; but defective in the deliberating, comparing and adjudicating powers of mind. If he was a very cunning man, he was not a very wise one; and if, at any period of his life he was brilliant as an orator, he never was a profound reasoner.

The fate of Col. Burr presents a solemn memento to the youthful aspirant for political fame and power. He may see in Mr. Burr, a young man born of wealthy parents, of high character for virtue and talents, commencing life with the advantage of an accomplished and finished education and the most fascinating address; at one period the idol of a great political party, and in the year 1800, second in influence and popularity only to one man in America; in 1812, we see the same individual, bankrupt in fortune and reputation, who, having wandered for years among various nations in Europe, had returned to his native land, detested as a traitor to his country, and shunned with horror by all good men as a murderer.

Will not the ingenuous mind, in view of such a career, be forced to the conclusion, that although the mere politician may extol the tact and address, and management of a partisan leader, the continued support of the great mass of the American people, can only be obtained by affording evidence of honesty and integrity of purpose, and that virtue and patriotism alone are safe and certain passports to power and glory.

It has been remarked, that the war between France and the other European powers, had occasioned a great demand for the bread stuffs produced by the grain growing states, which had raised the price of produce in this country to an amount before unequalled; that as the Americans occupied a neutral position, their vessels navigated freely the ocean, and that thus a considerable portion of the carrying trade of the belligerents, and particularly of France, was engrossed by American ship owners. The strength of the British on the ocean rendered that nation less dependent than France on this country for carrying on its transportation. The British were also desirous of compelling the French to transport their own supplies and goods in their own vessels, because the French vessels

when on the high seas, in all human probability, would many of them be captured by the British privateers, and vessels of war. For this reason, and with a view to curtail the neutral trade of the United States, the English government adopted orders in council, tending to check and in a manner suppress all intercourse between America and France. This state of things bore hard, not only upon America but France, by depriving that nation of supplies for its army. The French therefore adopted decrees which rendered American vessels liable to seizure and condemnation when carrying on what had heretofore been a lawful trade with Great Britain. The American government remonstrated against these orders and decrees without effect, and under the impression that neither England nor France could dispense with the use of our productions, Mr. Jefferson recommended an embargo on all American shipping, until one or both the belligerents should acknowledge our neutral rights by a repeal of their obnoxious orders and decrees. Congress adopted the recommendation by passing a law in accordance with it. The embargo bore hard on the northern and middle states, and particularly on the state of New-York.

It was contended that other and more efficient measures less injurious to the nation, and especially to the grain growing and commercial states, than a resort to an embargo for an indefinite period of time, might have been adopted. Shortly after the passage of this act by congress, a public meeting was held in the city of New-York, of which De Witt Clinton was chairman, and James Townsend was secretary, which adopted resolutions disapproving of the embargo; and Mr. Cheetham, in the American Citizen, the Clintonian paper, came out decidedly against the measure. The federalists to a man denounced, with great bitterness, the restrictive measures as ruinous to the country. The republicans, however, gene-

rally expressed their approbation of the embargo, and it was not long before the principal and almost the sole topic of dispute between the two parties, was the question as to the propriety and fitness of this measure, with which was connected a dispute whether the British orders in council were provoked by the French, or whether the French decrees were not in some degree excusable as a retaliatory measure to the English orders in council. The federalists advocated the first position, and the latter was contended for by the republicans.

While these national questions agitated the public mind, the legislature convened at Albany. Doct. Alexander Sheldon was again elected speaker, and Daniel Rodman clerk. Rodman, the republican candidate, received sixty votes, and Mr. G. Y. Lansing, the former clerk, twenty-one. This vote may be considered as evidence of the strength of parties in the assembly.

The speech of the new governor was well written. It presented a succinct and clear view of the controversy between the American government and the belligerents of Europe, and decidedly approved of the embargo as the most safe and efficient means of causing both the English and French to respect our national rights.

In the assembly, when discussing the answer of that body to the governor's speech, upon that part of it which advocated the embargo laws, a warm debate ensued, but in accordance with the views of the governor, was adopted by a vote of sixty-two to twenty-two.

On the first day of February, the assembly made choice of a council of appointment, consisting of Benjamin Coe from the southern, Peter C. Adams from the middle, John Veeder from the eastern, and Nathan Smith of the western districts.

The council immediately proceeded to the work for which they were created. They removed Dr. Tillotson

from the office of secretary of state, and appointed Elisha Jenkins. They restored Mr. Clinton to the Mayoralty of New-York; they removed Maturin Livingston from the office of recorder, and appointed P. C. Van Wyck to that office. Sylvanus Miller, who had been by Gov. Lewis removed from the office of surrogate of New-York to make place for Ogden Edwards, was restored to his former place, and eleven other removals and appointments were made on the same day.

By the election of Mr. Tompkins to the office of governor, another vacancy was caused on the bench of the supreme court, and to fill that vacancy Joseph C. Yates was appointed. This appointment occasioned some surprise to the members of the bar. Though perfectly amiable as a citizen, Judge Yates was not much known as a lawyer. This appointment was said to have been procured principally by, the influence of the country members of the legislature, among whom he was much esteemed, and especially by Mr. Veeder, who was a member of the council and his warm and personal friend. Mr. Clinton was almost the only prominent man who advocated his appointment. Mr. Woodworth, although he had from his boyhood been a zealous republican, was, because he supported Gov. Lewis, within a few days after the first organization of the council, removed from the office of attorney general, and Matthias B. Hildreth of Johnstown, appointed in his place.

I observe from the minutes of the council that on the 18th of March, JOHN W. TAYLOR and SAMUEL YOUNG, men who have since made a distinguished figure in political life, were appointed justices of the peace for the town of Ballston in Saratoga, and that on the 20th of the same month MARTIN VAN BUREN, who has been still more distinguished, was appointed surrogate of the county of Co-

lumbia. These, I presume, were the first civil offices held by these gentlemen.

This council proceeded to send new general commissions of the peace into many of the counties, and in the course of a few months brought about almost an entire change of persons holding civil offices in the state. Such was the power of this strange, and formidable machine called the council of appointment.

The legislature seems to have been effectually imbued with the same spirit which governed the council. There was one state office, and only one, over whose tenure the constitution gave them control. It was the treasurer. That office was then held by Abraham G. Lansing, an upright, responsible and capable man. Him the legislature promptly removed, and appointed David Thomas, late a member of congress from Washington county, in his place.

Mr. De Witt Clinton, shortly before or after his arrival in Albany, renounced his opposition to the embargo laws, and professed his approbation of the measures of the general administration. For this he was severely abused by the federalists, and by his quondam friend Mr. Cheet-ham, who persisted as editor of the American Citizen, in his opposition, and charged Mr. Clinton with bad faith, in persuading him to take the stand he had taken on the question, and then of abandoning him. I can perceive no just cause for this abuse. The embargo presented a great question of national policy, of which Mr. Clinton at first formed an unfavorable opinion, but upon more reflection, he judged differently. Had he not a right, and was it not his duty, thus to do? Having changed his opinion on the subject, as an honest man, he was bound to act according to the convictions of his own conscience.

The second term of Mr. Jefferson as president of the United States, would expire on the 3d of March, 1809,



and a new president was to be elected in December, 1808. It was the fashion of the day to designate the candidate for president by a congressional caucus; and James Madison was nominated by such caucus. This nomination gave offence to the vice-president, George Clinton, and his friends. George Clinton was by the same caucus again nominated for vice-president.

Seventeen republican members of congress protested against this nomination. Some of the protestors were from the state of New-York, among whom were John Russel, Josiah Masters, George Clinton, Jr., brother to De Witt, and Peter Swart.

The Albany Register, at that time conducted by Mr. Southwick, who acted in every thing in concert with De Witt Clinton, declared its confidence in Mr. Madison, but at the same time expressed an opinion that the presidency was due to the vice-president, Mr. Clinton. On the 5th of March, the vice-president wrote from Washington to a friend in Albany, probably De Witt Clinton, no doubt with a view that his letter should be published, stating that he was not consulted about the nomination, and had neither refused or consented to be a candidate. He did not, he said, even know of the caucus till the day on the evening of which it was held, when he accidentally saw a notice signed by Stephen Roe Bradley, summoning one of the members to attend. I observe that the Albany Register, shortly afterwards, (25th of March,) spoke with some bitterness of the policy of Virginia, and charged the Virginians with cherishing an opinion that no one out of that state was fit for the first office in the nation.

On the other hand, so early as the winter of 1806, I observe an article copied from the Richmond Enquirer into the Evening Post, describing the enormous power wielded by De Witt Clinton in this state, and alluding to

the fact that, besides being a senator and member of the council of appointment, he held the office of mayor of New-York, which it alleged was worth twelve thousand dollars a year. I mention these circumstances, to show the origin of the jealousies and the eventual hostility between Mr. De Witt Clinton and the Virginia dynasty, as it was afterwards called.

The legislature adjourned on the 11th of April, but before separating, the republican members signed an address, in which they justified the measures of the administration, and urged its support. The address was signed by eighty-nine members.

The effect of the embargo, among other things, was to reduce the price of wheat from two dollars to seventy-five cents per bushel. This roused the attention of the people, and they listened with eagerness to the arguments of the federalists. That party rallied with great vigor in almost every county in the state, and obtained a considerable accession of strength in the assembly, but the republican party still retained a majority in that house. From the eastern district, David Hopkins, a federalist was elected, and from the middle, Edward P. Livingston, a Lewisite, was chosen. Benjamin Coe and William W. Gilbert, from the southern, and Luther Rich, Francis Bloodgood, Sylvanus Smally, Walter Martin and Silas Halsey from the western districts, all republicans, were this year elected to the senate.

## CHAPTER XIII.

FROM MAY 1, 1808, TO MAY 1, 1809.

JOHN QUINCY ADAMS, who had been elected a senator of the United States, by the legislature of Massachusetts, a majority of whom were federalists, and of course were opposed to the embargo law, in the winter of 1808, had addressed a letter to Harrison Gray Otis, in which he declared himself in favor of that measure, and set forth at large his reasons for supporting it. This letter was republished in all the principal democratic newspapers in the state of New-York; and, as it was written with great ability, and the standing and character of the writer entitled him to much respect, it had a considerable influence on the public mind. Still, however, a large majority of the people of Massachusetts were warmly opposed to the embargo laws, and Mr. Adams, under these circumstances, thought it his duty to give back to the legislature the power with which they had invested him, inasmuch as a question had arisen, subsequent to his election, in which he could not, in conscience, carry into effect the will of his constituents. He, therefore, on the eighth of June, resigned his place in the United States senate, in order to afford the legislature an opportunity of choosing a representative whose political principles accorded with the majority of that body.

The Livingstons, and a majority of the prominent republican friends of Gov. Lewis, as well as Mr. Lewis himself, in connection with Col. Swartwout, M. L. Davis, and other leading Burr-ites in New-York, came out in support of the general administration, and they particularly manifested their zeal in behalf of Mr. Madison as the

next candidate for the presidency. In their anxiety to sustain Mr. Madison, they assailed Mr. De Witt Clinton, charging him with hypocrisy in professions of approbation of the embargo law, and with direct hostility to the election of Mr. Madison. In this they were sustained by several leading newspapers in other states. A newspaper printed at Washington, called the "Washington Monitor," edited by Mr. Colvin, a clerk in the office of the secretary of state, (Mr. Madison being then secretary,) a man of talents, but extremely lax in his moral principles, and irregular in his habits, enlisted, with the most asperity, in this warfare. These editors, in their animadversions and strictures, did not confine their attacks to De Witt Clinton, but extended their denunciations to the venerable vice-president and Judge Spencer. The appointments, too, which were made by the general government, began to assume an aspect of preference to those Burr-ites and Lewis-ites, in New-York, who were known to be personally hostile to Mr. Clinton.

John Barber, the proprietor and editor of the Albany Register, died on the 15th July, and the sole management of that paper then devolved upon Solomon Southwick, which greatly added to the influence which the personal address and zeal of that gentleman had before given him, in the republican party. Mr. Barber, as a correct and virtuous citizen, was highly esteemed, and his death was deeply lamented.

The fall elections afforded evidence of the increase of federal strength in the New-England states. The state of Vermont elected a federal governor, and a majority of federalists in the legislature.

The New-York legislature met on the first of November, for the purpose of choosing presidential electors.

Doct. Sheldon having been beaten at the election in April, the federalists having obtained a majority in Mont-

gomery county, Gen. James W. Wilkin of Orange county, was chosen speaker, in opposition to Mr. Van Rensselaer, the federal candidate. The result of the ballot was, for Wilkin, sixty, for Van Rensselaer, forty-five. This vote may be considered as an evidence of the strength of parties in the assembly.

The governor's speech did not contain any thing which particularly requires notice. He reiterated his approbation of the general administration, and again urged a support of its measures.

A considerable portion of the democratic party, were for giving the vote of the state to George Clinton for the office of president; others insisted that such a step would be unwise, if not positively wrong; that it would exhibit division in the ranks of the republicans in the nation; would excite jealousy and unkind feelings among the republican friends of Mr. Madison, and ultimately impair the just influence of the republicans of this state with their brethren in other states; while a vote for Mr. Clinton would be of no possible use to him, as it was morally certain Mr. Madison would be elected. It was, it would seem, finally agreed that the electors should be chosen without reference to their opinions on this question, leaving it to them to cast their votes either for Mr. Madison or George Clinton, as they might think expedient.

Ambrose Spencer and Henry Huntington headed the electoral ticket which was nominated and elected. Eventually six of the electors of this state, voted for George Clinton for president, and the residue for Mr. Madison.

The result of the presidential vote in the nation for president, was, for James Madison, one hundred and twenty-two votes; Charles C. Pinckney, forty-eight; George Clinton, six. For vice-president, George Clinton received one hundred and thirteen votes; Rufus King,

forty-eight; John Langdon, nine;\* James Madison, three;† James Monroe, three.†

The legislature, after choosing electors, adjourned, without attempting to transact any other business of importance.

From the moment when it was known that Gov. Tompkins had been elected, the Lewisites and Burrrites had prosecuted a very vigorous personal opposition to Mr. Clinton. The dissatisfaction of the vice-president with the nomination of Mr. Madison for the office of president; the inclination manifested by many of Mr. Clinton's friends in this state, to support Mr. Geo. Clinton, in opposition to the caucus nomination; and the disapprobation of the embargo laws, early manifested by Mr. Clinton, and indeed by the vice-president,‡ gave color to that opinion. But their most effectual means of recruiting their force and increasing their strength, was from the disappointed office seekers. Every man who failed in getting an appointment for which he was an applicant, was instructed to charge his defeat to Mr. Clinton, and as the applicant for office is always the last man to impute his ill success to his own unfitness, this advice was generally followed, while the persons who were so fortunate as to obtain appointments, were taught that they owed their success to Gov. Tompkins.

Tompkins himself professed to have nothing to do with

\* The votes of New-Hampshire.

† The votes of New-York.

‡ In the winter of 1808, Mr. Charles E. Webster published, in the Albany Gazette, a statement of an interview between him and Wm. Dunning, a democratic senator from the middle district, substantially alleging that he, (Dunning,) had received a letter from the vice-president disapproving of the embargo. To this, Mr. Dunning interposed an evasive denial; but he declined stating what the conversation was, as he insisted that it was confidential. He says Mr. Webster did not see the vice-president's letter, but he does not publish the letter, or pretend to state what it contained. From the statement it is fair to infer that the vice-president did, in a letter to Mr. Dunning, express himself unfavorable to the embargo laws.

this personal warfare; indeed, he claimed to be the personal as well as political friend of Mr. Clinton; but the circumstance that Mr. Mangle Minthorne, the father-in-law of the governor, and a wealthy citizen of New-York, was a leader in these attacks, and generally chairman of the meetings of the Martling men, as Mr. Clinton's opponents were called, induced considerable suspicion that Mr. Tompkins secretly encouraged these assaults, which now evidently appeared to be the result of a regular system, or plot, which had for its object the political prostration of Mr. Clinton.

A little before the winter session of the legislature, a public meeting of the friends of the national administration was notified to be held in the city of New-York. In order to create jealousy in the minds of the republican members of the legislature, then about to convene, and to impair the influence of Mr. Clinton among them, the following article appeared in a paper which was the organ of Mr. Clinton's opponents in New-York, called the Public Advertiser:—

**“A CAUTION AGAINST SURPRISE.”**

“An abominable intrigue is said to be in contemplation to place Mr. De Witt Clinton in the chair of the intended republican meeting.

“A measure so obnoxious to the republicans would destroy the harmony of the meeting. If De Witt Clinton should be offered, he will be opposed and rejected with disdain.

“There can be no possible objection to Mr. Clinton's supporting the general government, provided he has renounced his errors: but he must inspire more confidence before he can expect to attain the honorable station of a republican chairman.

“A more uniform character ought to be selected. Before Mr. Clinton is received, he must unequivocally

renounce his connection with Cheetham, Masters, Mumford and Van Cortlandt.\*

"It is hoped there is not a member of the general committee that will, for a moment, think of a measure which would be decisively opposed, and viewed as an insult to the public understanding.

"Let it be remembered that Mr. Clinton officiated as the chairman of a general meeting which censured the conduct of James Cheetham; that his consenting to serve, appears to have been a mere cover, for since that period he has been as intimate with Cheetham as he ever was.

"Republican proceedings should be open, frank and dignified. The people cannot be deceived by the little tricks and stratagems of *petit* politicians. Beware of intrigues."

I find the above extract copied into the Register of the 24th January, 1809. The Register characterises the article in the Advertiser as a base libel. It says that the Advertiser, when the article was penned, knew that it was impossible that Mr. Clinton could be chairman of the meeting referred to, because it was publicly known that he was to leave New-York for Albany, in order to take his seat in the senate, before the day appointed for the meeting in New-York.

The adjourned legislature met on the 27th of January.

Four days after the session commenced, (Jan. 31,) Mr. Clinton, probably partly with a view to disprove the allegations of the Martling men that he was opposed to the republican party in the nation, brought into the senate a series of resolutions, approving of the general administration, and pledging the state for its support.

These resolutions, upon their introduction, were supported by Mr. Clinton by an elaborate and able speech.

\* Messrs. Mumford, Masters and Van Cortland, were members of congress who voted against the embargo, and also protesters against the nomination of Madison.



He reviewed the controversy between this country and the European belligerents, and he showed that America could not, consistent with her independence and dignity as a nation, any longer submit to a violation of our neutral rights. He traced the causes of the difficulties to the mal-conduct of Great Britain, and he insisted that the embargo and non-intercourse laws were the safest and most proper measures to which, under the circumstances, the government could resort. He condemned the violent opposition of Massachusetts and the other eastern states, to the embargo laws; he deprecated the measures which the federalists in that quarter were pursuing, as tending to a division of the union; and it was on this occasion, that he made, as applicable to the governing principle of the eastern federalists, his celebrated quotation from Milton—

*"Better to reign in Hell, than serve in Heaven."*

In the assembly, counter resolutions condemnatory of the embargo and of the whole restrictive system, were, about the same time, introduced by the federalists.

In that body, the federalists had not only become respectable as to numbers, but they had several men deservedly distinguished for their talents. Abraham Van Vechten was a member from the county of Albany. The great talents and high standing of Mr. Van Vechten are too well known to require any description, and the same remark is applicable to Daniel Cady, a member from Montgomery county, who is still living. The latter gentleman has devoted an unusually long professional life to the practice of law, and has acquired a reputation, as a lawyer, of inestimable value. He never suffered political pursuits for one moment to divert him from the industrious and faithful discharge of his professional duties.

Mr. Jacob Rutsen Van Rensselaer, from the county of

Columbia, was also a member of the same assembly. Mr. Van Rensselaer was not so distinguished in his profession, (he was bred a lawyer,) as the other two gentlemen, but he was a man of talents, and a bold, active, and most zealous politician. Under the lead of these gentlemen, a furious war was carried on against the political majority in the state, and against the general administration. On the other hand, the republican side of the question was well and ably sustained, in the assembly, by Nathan Sanford, afterwards chancellor, Roger Skinner, afterwards United States judge, Obadiah German, D. L. Van Antwerp, and others.

The resolutions condemnatory of the embargo, and the measures of the administration generally, were eventually rejected, and those introduced by Mr. Clinton were adopted by both houses: in the senate, without a division, and in the assembly by a vote of sixty-one to forty-one.

A council of appointment was chosen on the 30th of January. The senators elected, were Jonathan Ward of the southern district, James G. Graham of the middle, Isaac Kellogg of the eastern, and Alexander Rhae of the western. No important appointments were made this year.

Solomon Southwick was made sheriff of the city and county of Albany. At that time Mr. Southwick's popularity and influence were sufficient to command almost any office within the gift of the republican party.

The voluntary suspension, by the act of the government, of the exportation of the surplus produce of the country, by the embargo and non-intercourse laws, annoyed and disturbed the ship owner; for his capital, invested in ships, was rapidly wasting by the decay and rotting of his ships in port, without affording him one cent of profit; the importing merchant was arrested in his business, because the annihilation of the exporting business deprived him of all

means of remittance; and the farmer felt grievously the effects of the restrictive system in the failure of any demand for his productions, and in the very great reduction in the price of every article, which could be sold at all, in market.

The eastern states boldly took the ground that an embargo, for an unlimited period of time, was unconstitutional; inasmuch as the constitution merely authorised congress to *regulate* commerce, but an indefinite embargo was an *annihilation* of it.

In addition to all these causes of complaint against the embargo system, there was another, which disgusted some of its original friends. Such was the extent of the American coasts, and so numerous were our ports, that it was impossible to enforce the law. Honest men obeyed it, and suffered by it; but the knave evaded it, and pocketed large profits as a reward for his temerity in violating the laws of his country. It was said, and perhaps justly said, that a legislator was bound to know whether a law could, or could not, be executed; that he merited the condemnation of his constituents, when he enacted a law which the event proved could not be executed; and that his failing to foresee the event was an evidence of his incapacity to legislate.

But no mere argument will produce an effect on the people like actual, palpable pecuniary loss. The merchant who fails in business, and the farmer, the price of whose wheat, or other article, sinks on his hands to one-half the former price, are extremely apt to charge on the men who manage the affairs of the government their unwelcome reverses of fortune. They readily conclude that a change of men can scarcely make things worse, and may make them better.

Had the federalists confined their opposition to the measures adopted by government to repel the aggressions

of the European belligerents on our commerce: that is to say, the embargo and non-intercourse laws; it seems to me they must have carried a majority of the American people; but, unfortunately for their success, they continually insisted that we had little or no cause of complaint against Great Britain, and that France was the principal aggressor. If, then, they contended, America must have a war, it ought to be a war with the French, and not the British.

This, was a revival of the old contest of 1798, and of course, roused into action the democratic feeling which operated so intensely on the minds of men during that period. Nay, more, it was calling out the remnant of revolutionary feeling which then existed. Our mothers had taught us in our cradles that the British were our enemies. It was difficult for the most adroit politician to teach us a different and adverse lesson.

Still, there were many republicans so disgusted with the restrictive measures, that they abandoned their party. Some respectable Lewisites and Burrites could not be induced again to act with a party, who, in their judgment, had, without any cause, opposed the election of their favorite gubernatorial candidates; and there were, no doubt, many other disappointed applicants for office, who, from resentment, or from having lost all hope of participating in the spoils with the ruling party, sought a change, with the certainty that no change could make their situation worse, but that a revolution of parties might better their condition.

The republican party were by no means inactive. Public meetings were held, and the most vigorous efforts were made to sustain the national and state administrations. Legislative addresses, of both parties, were drawn and published, and circulated in every part of the state, but the election finally resulted in the triumph of the federal

party—the first triumph which, as a party, they had achieved, since the year 1799.

In the assembly the federalists obtained a majority, and in the eastern and western districts federal senators were elected. Israel Carle was elected from the southern, Samuel Haight and Johannus Bruyn from the middle, Daniel Parris and John Stearns from the eastern, and Jonas Platt, Seth Phelps and Amos Hall from the western districts.

The result of the vote was as follows:—

Districts.	Rep. Maj.	Districts.	Fed. Maj.
Southern, . . . . .	840	Eastern, . . . . .	534
Middle, . . . . .	816	Western, . . . . .	391
	<hr/> 1656		<hr/> 925

From this statement it appears that the republican majority of freeholders, in the state, was but seven hundred and thirty-one.

Gen. Obadiah German was, during the session of 1809, elected senator of the United States, as the successor of Doct. Mitchell. His election was not anticipated. John Tayler, and several other prominent republicans, were spoken of as candidates, but the western part of the state claimed that the United States senator should be taken from that quarter, and Gen. German had deservedly acquired much influence in the legislature, having been for a considerable time a member. Although an uneducated man, he was distinguished for strong and vigorous intellectual powers; while his frank and independent course, as a legislator, secured to him the friendship and respect of his fellow members. Mr. Clinton was said to have been friendly to his nomination and election.

## CHAPTER XIV.

FROM MAY 1, 1809, TO MAY 1, 1810.

THE chief of the French government had stipulated that whenever the British government should rescind their orders in council, as respected the American trade, he would revoke his Berlin and Milan decrees; and in the month of April, Mr. Erskine, the English minister at Washington, had entered into a treaty with the American government, that the orders in council should be repealed on the tenth day of June then next.

The president immediately issued a proclamation setting forth the substance of the treaty, and announcing that the embargo and other restrictive statutes would be repealed, according to a proviso contained in those acts, on the same tenth day of June.

This proclamation was received with great joy all over America; but the republican party, especially, hailed the news with triumph, claiming it as a demonstration of the efficacy of the embargo laws, which the federalists, as coercive measures, had so bitterly and unsuccessfully denounced. The republicans, with great confidence, ascribed this happy (supposed) termination of our foreign disputes to the firmness and wisdom of the national administration. But the news did not arrive in time to have much effect on the April election. It came to the polls in the town where I then resided and now reside, which is but fifty miles from Albany, on the second day of the election, directed to me in a hand bill form. I instantly made it known, but the federalists denied its truth, and charged it as a sheer electioneering trick. The same course was taken by the federalists at most other polls in the state where the news ar-

rived before the election terminated. Many federalists were undoubtedly sincere in their belief that the proclamation was forged, for considerable sums of money were lost by bets upon its genuineness.

The tenth of June was celebrated in most of the cities and counties in the state, as a day of triumph of the republican party; but that triumph was of but short duration, for the British government disavowed the authority of Mr. Erskine to enter into such an arrangement, and peremptorily refused to carry into effect the stipulations of their minister, by a repeal or even the slightest modification of the orders in council.

This disavowal was received by the American government and the republican party in general, with deep indignation; and they charged, in no measured terms, the British cabinet with a palpable breach of public and pledged faith. The federalists too, were much mortified and chagrined, for they had all along apologised for every act of Great Britain, but in this instance their ingenuity was severely taxed to invent an excuse for the conduct of Great Britain. They finally settled down upon the plan of charging the president with entering into an engagement with Mr. Erskine with a full knowledge that he had no power to make it, and they therefore agreed that the president and not the British government was culpable.

The federalists, in order to carry on the war with more vigor, induced Mr. Harry Crosswell, a gentleman of talents and great power as a political writer, who had printed and conducted the "BALANCE" at Hudson for many years, and who we have seen was indicted for a libel on Mr. Jefferson, to remove to Albany and there issue a party paper entitled the "Balance and New-York Journal."

In the city of New-York, Mr. Cheetham, in the American Citizen, continuing to oppose the embargo, that paper declined, and in fact ceased to be recognized as a republi-

can paper. To supply its place, Mr. Charles Holt, who had been indicted for sedition in Connecticut under the administration of Mr. Adams, established a Clintonian republican paper called the *Columbian*, in the city of New-York.

Newspapers are to political parties in this country what working tools are to the operative mechanic. I do not speak this intending any want of respect for party editors. As a class of citizens they are respectable, and many of them possess talents of high order. I merely state the fact, as an excuse for occupying the time of the reader in this history of parties, in occasional notices of newspapers and their editors.

A governor was to be elected in April, 1810, and the federalists took an early position in the field. On the 5th of January, a large and respectable meeting was held in Albany, of which Abraham Van Vechten was chairman, and at which Jonas Platt was nominated for governor. Mr. Platt was a lawyer, highly respectable for talents, and great purity of character. He was a pioneer in the country west of Albany, for although Whitesborough, his place of residence, is now quite in the interior, and rather easterly of the centre of population in the state, in 1790, or about that time, when Gen. Platt established himself there, it was a frontier settlement. He had, therefore, grown up and grown great with the great west. Probably the hope of obtaining a strong vote in the old western district, which until the last election had been considered the stronghold of republicanism, was one reason for the selection of a candidate residing in that district, and the unexpected success of Mr. Platt, in his election as senator, was proof of his personal popularity, and indicated him as the most suitable candidate residing in that quarter, for the office of governor



Nicholas Fish was afterwards nominated as the federal candidate for lieutenant governor.

The legislature met on the 30th of January. Gen. William North, of Duansburgh, was the federal candidate for speaker, and chosen over William Livingston, the democratic candidate, by a vote of fifty-seven to forty-three, showing a federal majority in the assembly of fourteen.

The governor in his speech reviewed the controversy of the United States with the belligerents of Europe, pointed out the injuries which this country had sustained by a violation of its neutral rights, and justified the course pursued by the general administration. He spoke favorably of the success of the experiment then being made by domestic manufactures, and he recommended legislative encouragement of the companies engaged in them. He urged the attention of the legislature to the common school fund, and he concluded by recommending harmony and unanimity of action.

When parties in a legislative body are nearly equally divided, a recommendation of unity and harmony is emphatically "words, words, words," and nothing else.

The assembly forthwith proceeded to the choice of a council of appointment, and Israel Carl of the southern, Robert Williams of the middle, Daniel Parris of the eastern, and Amos Hall of the western districts were elected. Mr. Parris and Gen. Hall, were federalists, but Mr. Williams was elected to the senate as a republican. There was not at that time a single federalist in the senate from either the southern or middle districts. Hence the majority in the assembly were compelled to choose senators, for members of the council from those districts, who were elected as republicans. Mr. Carl was frank and decided, and possessed a character for sincerity and firmness which excluded all suspicion that he would swerve

from an honorable republican course. Not so with Mr. Williams. He had been wavering in his politics, and had alternately been a Burr-ite, Lewisite and Clintonian. He was, in fact, suspected to be a political huckster, his subsequent conduct proved him to be such. He had, however, carefully concealed his intentions from the political friends with whom he professed to act, so much so, that after his election many republicans had full confidence that he would be true to their interest; but upon the first meeting of the council, on the second day of February, all doubts were removed, and Mr. Williams fully exhibited the political character which he meant thereafter to assume. At that first meeting, the attorney general, secretary of state, recorder of Albany, mayor, recorder, district attorney and surrogate of New-York, were removed, and Abraham Van Vechten was appointed attorney general; Daniel Hale, secretary of state; Theodore V. W. Graham, recorder of Albany; Jacob Radcliff, mayor of New-York; J. O. Hoffman, recorder; C. D. Colden, district attorney, and John W. Mulligan, surrogate of New-York. The surrogate of Dutchess county, James Talmadge, was removed, and Thomas J. Oakley, the son-in-law of Mr. Williams, but a young lawyer of highly respectable talents and character, was appointed in his place. Several minor removals and appointments were also made this day.

The indignation of the republicans against Williams was everywhere intense, but in no part of the state was that indignation nearer bursting forth into open outrage than in his own district. The very friends who exerted their influence, employed their time and expended their money to procure his election, were those who, by his casting vote, were ejected from office—office upon the emoluments of which some of them depended for the support of their families. He was stigmatized as a traitor

and labeled as a Judas Iscariot. Who would purchase short-lived power at such a price? Mr. Williams, though a man of considerable activity, address and enterprise, after he ceased to be a member of the council, was neglected by all parties, and was never afterwards heard of in political life. His fate should operate as a beacon to young politicians. The public are too just to condemn any individual for his political opinions, provided he expresses them frankly and supports them fairly. It is concealment, hypocrisy and treachery, which are in politics the unpardonable sin, a sin which merits and generally receives a condemnation which is perpetual.

This council was purely federal, unembarrassed with the scruples or timidity which crippled the action of the council of which Lewis was president in 1807. It was very thorough, and as a Washington newspaper editor at a late day would have said, "*searching*" in its operations. Clerks of counties, sheriffs, district attorneys, judges of courts of common pleas, surrogates, and justices of the peace, were generally made to feel its power.

The assembly very properly passed a bill re-appointing Abraham G. Lansing as treasurer, in which the senate concurred.

On the 5th of February, a legislative caucus of the republican members was held, at which Tompkins and Broome were nominated for re-election. The address was drawn by De Witt Clinton, and signed by all the republican members of the legislature, and several citizens who happened to be in attendance. The whole number of signers of the address was one hundred and thirty-six.

The answer reported in the assembly to the governor's speech, was severe, almost to indecorum. It attacked with great asperity the national administration. It charged, that we had more cause of war with France than Great

Britain, and that the government had not pursued an impartial course towards the belligerents.

A substitute responsive to the governor's speech was offered by Doct. Mitchell from New-York. An able and widely extended debate ensued, conducted principally on the federal side by Messrs. Van Vechten, Cady and Grosvenor. The gentleman last mentioned, was a new member from Columbia county, who, as a member of the New-York legislature, and afterwards as a member of congress, distinguished himself as one of the most splendid orators of the age. His life, though brilliant, was short. He died while a member of congress in 1817.

On the republican side of the house, the debate was carried on principally by Doct. Mitchell, Roger Skinner of Washington county, D. L. Van Antwerp of Schenectady, and O. P. Comstock of Seneca county, a son of the worthy Adam Comstock of Saratoga county.

I happened to be present and heard the speech of Doct. Mitchell. His argument afforded evidence of much reading, considerable ability, and great benevolence of heart; and yet we thought it smelt of the shop, for in speaking of preparations for war, and the resources of this country, he had occasion to state that an abundance of salt petre might be found among us. This led him to give the history of the discovery of the art of making gunpowder, and the chemical laws which governed that process, so that before the good Doctor was aware of it, he appeared entirely to have forgotten the orders in council, the Berlin and Milan decrees, and the federal and republican parties, and was transferred to his chemical laboratory, delivering a lecture to his students on the affinities of bodies. The address, as reported by the select committee, was finally carried by a vote of fifty-nine to forty-six.

In the senate, a select committee had reported an answer to the governor's speech, responsive to it, for which

Gen. Platt offered a substitute, which was supported by himself and Mr. Parris, with considerable ability. They were answered by Mr. Clinton and Judge Tayler. The course of argument pursued by Mr. Clinton and Judge Tayler, tended to charge on the federalists an overbearing attachment to Great Britain, and indeed they accused them with taking sides with the British against their own country. I heard Mr. Tayler's speech, and in the course of it, or rather towards the close, probably in order to keep alive the revolutionary prejudices against the British, he gave a detailed account of their negotiations with the Indians, about the time of the commencement of the war of the revolution, and which resulted in an agreement between the parties, that the Indians should become the allies of the British; and he thence charged the English with being responsible for the depredations and murders committed by the savages. Mr. Tayler then proceeded to give an account of the patriotic services and great sacrifices and sufferings of Mr. Parris the father of the senator, during the revolutionary war, and finally of his treacherous and barbarous murder by the Indians. "And now," said Mr. Tayler, "I am surprised and grieved to see the son of my beloved venerated revolutionary friend in this senate pleading the British cause."

Mr. Parris, who was a man of high and honorable feelings, was much excited, and replied with great asperity to Mr. Tayler.

Judge Tayler was a man of great tact and discernment, and I give this part of his speech to show the kind of argument resorted to and the feeling called out in this political contest.

The substitute of Gen. Platt was rejected in the senate by a vote of twenty-three to six.

The legislature adjourned on the 6th day of April, without having passed any important general laws.

The annual election, as usual when a governor was to be elected, was sharply contested; but the circumstances under which this election was held, were calculated to call into action an uncommon degree of zeal. The great question as to the merits of the measures of the national government, was of immense importance, and was to be passed on by the people, but this was not all, nor perhaps so much the immediate cause of the high excitement, as the fact that the federalists had just got a taste of the loaves and fishes, and the republicans had been recently ejected. Indeed, it was a life and death question with the federalists. If they could elect Gen. Platt, they could retain the power of which they had had barely time to taste. If Tompkins should be elected they were prostrated for an indefinite period of time. No wonder then they struggled as it were for life. On the other hand, the republicans had been recently ejected from office, which only sharpened their appetite for power, and their zeal in the contest was quickened by resentment against the party who had overthrown them. Contrary to the expectations of both parties, the republicans were not only successful, but their success was complete. They achieved an entire and complete overthrow of their opponents. Tompkins was re-elected by about ten thousand majority. The republican candidates for the senate succeeded in all the four districts, and in the assembly the republicans had a majority of almost two to one. The only gain of the federalists in the assembly was in the city of New-York, where the election was very close, six federalists and five republicans having been elected from that city.

The senators elected this year from the southern district, were Ebenezer White; from the middle, James W. Wilkin and Morgan Lewis; from the eastern, Henry Yates, Jr.; from the western, Nathan Smith, Reuben Humphrey, Henry A Townsend and Philetus Swift.

It may perhaps, surprise the young reader to be informed that the name of Gov. Lewis as a candidate for the legislature was on the same ticket that contained the name of Gov. Tompkins, and that the same party which three years before opposed the election of Mr. Lewis, and supported his more successful rival, now advocated the election of both. But such nevertheless was the fact.

Whether Gov. Lewis from his own reflection, and from the persuasion of his friends, of the Livingston family, had been induced to take this course from a calculation that this was the best means of regaining political power, or whether, although he did "hate Tompkins less, he hated Clinton more," and supposed this course would afford him the greatest certainty of eventually prostrating Mr. Clinton, or whether he had taken his resolution from a sense of duty and motives of patriotism, or whether he was operated upon partially by all these considerations, I leave to the speculations of judicious readers. As a general rule, indeed, as a uniform invariable rule, I think when a man acts right, he ought to be presumed to act from right motives, unless the contrary appears.

The causes of this overwhelming defeat of the federalists may be,

First, the change by congress of the embargo for the non-intercourse system. The embargo was always unpopular. If it was a prudent, it nevertheless seemed to the people a timid policy. By it we were compelled to remain inactive while the inhabitants of all other parts of the globe were in motion. This state of things was not suited to the feelings and genius and enterprising spirit of the American people. While the embargo continued the government was felt by business men as a kind of incubus, restraining their action and paralyzing their energies, but when relieved from it, although a non-intercourse was substituted, men felt relieved from a weight which had

borne them down, and the air which they breathed seemed freer.

Second, as might have been anticipated, the hostile feeling against Great Britain increased. Impressions made on us in our infancy were revived, by supposed or real injuries received from a nation against whom we had imbibed prejudices from the breasts of our mothers. These feelings were rendered active, and embittered by the refusal of the British to carry into effect the treaty made by their accredited agent and envoy, Mr. Erskine.

To these causes may be added the influence of the patronage of the general government, wielded by that very discreet and judicious statesman, James Madison. Whatever changes might be produced in the state of New-York, the most sanguine federalists did not indulge the hope of electing a federal president for many years to come. Calculating politicians therefore, could not fail of perceiving that the republican side for the office-seeker was the safest side. I of course, do not mention this last cause as one operating on the great mass of either of the two great parties, for I believe that an immense majority of both were governed in their political action by a desire to support such men and measures as they believed would be most likely to advance the prosperity, secure the independence, and perpetuate the institutions of the country. There is, however, in this as in all other countries, a portion of the population who are governed by other and more selfish considerations. Hence, in accounting for majorities, we are compelled to seek for the motives of action which governed this class or portion of our population.

It is fortunate, however, that so long as the great mass of both parties are honest in their intentions, there is no reason to apprehend very serious detriment to the republic, should this unprincipled selfish portion of the community throw themselves into either scale.



## CHAPTER XV.

FROM MAY 1, 1810, TO MAY 1, 1811.

THE entire predominance secured to the republican party, in all the branches of the state government, seemed rather to increase than diminish the industry and activity of the Martling men, in the personal war they were waging, in the city of New-York, against Mr. Clinton. From the spirit with which they conducted their attacks, there can be little doubt but they were assured, by some of the members of Mr. Madison's administration, of their countenance and support. This combination against him, Mr. Clinton appears, at this time, to have regarded with indifference, if not with contempt. As a politician it was one of his defects, more fully afterwards evinced in his subsequent conduct, that he was too apt to under estimate the power and means of annoyance of his opponents.

During this summer, in the month of August, Lieutenant Governor Broome departed this life, leaving vacant the office to which he had been elected at the last annual election.

The legislature met on the 29th January, 1811. Nathan Sanford, of New-York, was chosen speaker of the assembly, by a vote of sixty-four to thirty-three, against the federal candidate. Stephen North, of Delaware county, was elected clerk, over Mr. James Van Ingen, the federal candidate. The vote on this question stood sixty-four to thirty-seven.

The governor's speech was chiefly occupied by remarks on the foreign affairs of this country; but he again urged the protection and encouragement of domestic manufactures, as the only means of rendering the state and nation

truly independent, and he also again invited the attention of the legislature to the common school fund. On the next day after the organization of the two houses, the assembly elected a council of appointment. Benjamin Coe, of the southern; James W. Wilkin, of the middle; John McLean, of the eastern; and Philetus Swift, of the western districts, were chosen. This council, at the first time of their meeting, which was on the first day of February, undid almost every important thing which had been done by the preceding council.

Mr. Hildreth was re-appointed attorney general; Mr. Jenkins secretary of state; Mr. Clinton was made mayor of New-York; and John Van Ness Yates, who had been removed to make a place for Mr. Graham, was restored to the office of recorder of Albany. The federalists who were last year appointed to office in the city of New-York, were all removed, and the former incumbents restored to the offices they had respectively occupied.

This council, in the course of their operations, produced an entire change of officers throughout the state, from the highest to the lowest, at any rate in all those cases where their immediate predecessors had made appointments. But in truth, the public mind had become so accustomed to see men ejected from office on account of their opinions, that such changes ceased to be matter of surprise, or to produce any excitement. I cannot now refrain from noticing one little act of the council which, even in these times, seems to me quite contemptible. They removed Gerrit Y. Lansing, a young gentleman of great respectability, and who, since, for a number of years, represented the county of Albany in the congress of the United States, from the petty office of master in chancery, probably for no other ostensible reason than that he had been chosen clerk of the assembly during the administration of Gov. Lewis.

On the 14th February, the health of Mr. Sanford was so much impaired that he was compelled to resign his office of speaker, and Willam Ross, of Orange county, was chosen to fill his place.

The charter of the United States Bank expired this year, and an attempt was made to re-charter it. A bill for that purpose, passed the house of representatives, after a long and interesting debate; but it was rejected in the senate by the casting vote of the vice-president, George Clinton. He assigned briefly the reason of his vote, which was, that inasmuch as the power to create corporations was not expressly granted to congress, it was reserved, and the chartering of a bank was therefore unconstitutional. "In the course of a long life, said the venerable man, "I have found that *government is not to be strengthened* by an assumption of doubtful powers; but by a wise and energetic execution of those powers which are incontestible."

Whether his vote was right or wrong, is a question I do not propose to discuss, but I cannot refrain from declaring that the sentiment, with which he concluded his remarks, is perfectly just, and ought to be deeply impressed on the mind of every statesman.\*

The bill incorporating the Mechanics and Farmers Bank of the city of Albany, was passed, ostensibly for the benefit and accommodation of the mechanics and middling interest of that city. Accordingly, the president of the institution, and a majority of the directors, were, by the original charter, required to be practical mechanics.† Mr.

\* The above was written in 1840. Since that time, this part of Vice-President Clinton's remarks have been often quoted in the newspapers, and, I am informed, that Mr. Allen, who edits the "Madisonian," a Washington paper, has asserted that a gentleman, then a member of the United States senate, was the author of the sentence. It may be so; but if so, the fact ought to be proved before it receives general credence. It would require strong evidence to convince me that George Clinton borrowed the words or ideas of any man. If the allegation be not true, this attempt to rob the mighty dead deserves the indignation and contempt of every honorable man.

† By an act passed March 21, 1836, the charter was altered, and the stockhold-

Southwick was the first president. This gentleman was now in the zenith of his power and prosperity. He controlled the Albany Register, which at that time, possessed a most commanding influence over the democratic New-York public. He was prepossessing in his appearance and generous in his nature, and was all but worshipped by the republican members of the legislature. He was printer to the state, and the state patronage that year, by means of the insolvent notices growing out of a law passed during the session of 1811, was throwing into his coffers gold in unmeasured quantities, and now the influence and power of a popular bank was placed in his hands. We shall see how soon all these advantages, and all his flattering prospects and high hopes vanished, and "left not a wreck behind."

The legislature also passed an act, in the early part of the session, for the election of a lieutenant governor, in lieu of the deceased Lieut. Gov. Broome. Shortly after the passage of this act, and on the 14th March, at a legislative republican caucus, at which Wm. W. Gilbert was chairman, and Jasper Hopper secretary, De Witt Clinton was nominated to be supported for the successor of Mr. Broome, as the report of the proceedings of the meeting, contained in the Register, states, *by a large majority*. An address was issued on the occasion, signed by seventy-three republican members.

What were the motives which induced Mr. Clinton to desire or accept this nomination? He was mayor of the great city of New-York, from which, he no doubt, at that time, derived emoluments equal to fourteen thousand dollars. To accept the office of *lieutenant governor, under Daniel D. Tompkins as governor*, was, in name at least,

ers were authorized to elect any of their members directors, and the directors can lawfully elect such person for president as they may think proper, irrespective of his profession or occupation.

and in the eye of distant spectators, admitting himself to be of far less political consequence than Mr. Tompkins—an admission, it is to be presumed, he was by no means ready to make. Besides, the station of lieutenant governor did not, *ex-officio*, confer on him any political power.

But it is probable that Mr. Clinton believed that his presence at Albany, during the session of the legislature, and a personal intercourse with the members, was absolutely necessary in order to enable him to retain his ascendancy with the governing party. This object might have been better accomplished by his continuance in the senate as a member of that body. In this capacity he could, with propriety, lead off on all the great and most popular measures of the party, and, at his option, take part in the discussions, and by the publication of his speeches, always have an opportunity of presenting his views to the public, without the mortification of continually presenting himself, officially at least, as an inferior to Mr. Tompkins. He, therefore, must have preferred a seat in the senate to the office of lieutenant governor.

If, then, we conclude that Mr. Clinton believed, and perhaps correctly believed, that his personal attendance at Albany was absolutely necessary, to enable him to defeat the machinations of his enemies, and retain his influence in the state, and that, for that purpose, a seat in the senate was more desirable than the office of lieutenant governor, the inference is most manifest that he would have sought a re-election as senator, had he not have become convinced that he could not be nominated and supported by the republicans of the southern district. That such was, in truth, the state of feeling among the majority of the republicans of that district, is evident from the developments which were made immediately after Mr. Clinton's nomination at Albany.

No sooner did the news of Mr. Clinton's nomination

reach New-York, than the Martling men put themselves in motion with great spirit and energy. A meeting was forthwith got up, in Martling's long room, at a public house fronting the Park, called Tammany Hall, which was claimed as the democratic head quarters for the city of New-York. Mr. Teunis Wortman, who was the protegee of Mr. Clinton during the struggle with Col. Burr, was one of the most busy spirits in gathering and exciting the opposition on this occasion. At this meeting, Mangle Minthorne, the father-in-law of Governor Tompkins, presided, and John Bingham was secretary. They adopted a preamble which set forth that they believed Mr. Clinton was cherishing interests distinct and separate from the general interest of the republican party, and "determined to establish in his person a pernicious family aristocracy; that devotion to his person had been, in a great measure, made the exclusive test of merit, *and the only passport to promotion;*" that the meeting had strong reasons to believe he opposed the election of Mr. Madison to the presidency of the United States; and that they could no longer consider him a member of the republican party. The meeting then proceeded to nominate Col. Marinus Willet as the republican candidate for lieutenant governor, and appointed Dr. Saml. L. Mitchell, Teunis Wortman, Matthew L. Davis, John Ferguson, and others, a committee to promote the election of their candidate. Col. Willet had been an officer of great merit during the revolutionary war, and in private life he was regarded as an amiable and meritorious citizen. In his politics, however, he had been wavering. He was inclined to support the Burr faction, and was, it will be recollected, a partizan of Lewis, and was appointed mayor of New-York, on the removal of De Witt Clinton, by the same council who had given so much offence to the republican party. It is not a little singular that this meeting, whose object was to

defeat a regular state caucus nomination, in their preamble, avow their approbation of the practice of, and their determination to support, caucus nominations.

Mr. Nathan Sanford was an open and avowed adherent to the Martling men, and was subsequently nominated, through their influence, to be supported as the successor of Mr. Clinton, as senator from the southern district. Mr. Sanford, at that time, held, under Mr. Madison, the office of United States district attorney of New-York—an office which produced him annually, on an average, more than thirty thousand dollars. Mr. Sanford was a *prudent* man. Would he have publicly identified himself with the Martling men had he not been well assured that the proceedings of those men were approved by Mr. Madison?

A counter meeting was, about this time, held by the republican Clintonians in New-York, at the Union Hotel, at which Arthur Smith was chairman, and Hector Craig secretary, the object of which was to pass resolutions approving of the nomination of Mr. Clinton; but the Martling men rushed in upon them, and the meeting was broken up in confusion.

The federalists nominated and supported Nicholas Fish as their candidate for lieutenant governor.

Notwithstanding the vigorous efforts made by the Martling men, among whom were many gentlemen of great weight of character and influence, to detach from Mr. Clinton the support of his republican friends, such was the respect for his talents, and confidence in his integrity, entertained by the republicans of the country, that little impression was made upon them.

During this year the mode by which the republican party selected their candidates for the senate was changed. Heretofore the republican members of the assembly, from each senatorial district, met in caucus, and by a majority of votes designated the candidate. This mode of nomina-

tion was found to be very justly objectionable. The voice of those republicans who happened to reside in counties represented by federalists was not heard, at any rate they had no means of causing their influence to be *felt* in the selection of persons for whom they were to vote for the important office of a senator; and the long residence of the members of assembly, from a given district, at Albany, and continued and frequent association together, seemed calculated to lead to cabal and intrigue in the selection of such persons, as candidates for the senate, more suited to the gratification of the individual views and interests of the members, than acceptable to the great body of the democratic party. Instead, therefore, of this mode of nomination, delegates were hereafter chosen by a county meeting of delegates, who were themselves chosen by that portion of the people in the respective towns, who were republicans, at their primary meetings.

The election, in April, does not seem to have been very warmly contested in any other part of the state but the city of New-York. In that city and county, Mr. Clinton received but five hundred and ninety, and Col. Willet six hundred and seventy-eight, while the federal candidate, Mr. Fish, received two thousand and forty-four votes: being nearly two to one of the aggregate vote cast for Clinton and Willet. The result of this election showed very clearly the little strength that remained to Mr. Clinton among the New-York republicans, and it also proves that so anxious were the Martling men to defeat Mr. C. that a majority of them actually voted for the federal candidate, Mr. Fish. By this vote they exhibited this most palpable absurdity—

They opposed the election of Mr. Clinton because they alleged he was secretly aiding the federal interest, and to carry out this opposition they voted for a federalist ! The federalists carried their assembly ticket in New-York by



a majority of more than fourteen hundred. Their success was unquestionably owing to the collisions among the republicans. Indeed, it is not improbable that many of the Clintonians voted the federal assembly ticket, as the persons put in nomination by the democratic party for the assembly, were all, or nearly all of them, the most bitter and uncompromising enemies of Mr. Clinton.

Among the federal gentlemen elected, were Samuel Jones, jun., afterwards chancellor, now chief justice of the superior court of the city, and Peter W. Radcliff.

The general result of the state election was favorable to the democratic party. Of the members of the assembly elected, seventy-three were republicans, and thirty-nine were federalists.

The following persons, all republicans, were elected to the senate. Nathan Sanford, from the southern; William Taber and Erastus Root, from the middle; John Tayler, Ruggles Hubbard, Ketchel Bishop and Elisha Arnold, from the eastern; and Casper M. Rouse, from the western districts.

## CHAPTER XVI.

FROM MAY 1, 1811, TO MAY 1, 1812

THE political year on which we now enter, was one in which two important projects were formed, and in the attempt to execute which, great alterations were produced in the condition of political parties, and in the personal standing and influence of several distinguished individuals in the state of New-York. The one was the support of De Witt Clinton in opposition to Mr. Madison for the presidency, and the other the chartering of the Bank of America, with a capital of six millions of dollars.

The difficulties between America and Great Britain instead of having been compromised had gone on for years increasing. In addition to the war made by that power upon our neutral commerce, it claimed the right of searching our merchant vessels; and if sailors or other persons were found there, who were British subjects, of impressing them and compelling them to serve in the British navy.

This practice constituted a subaltern officer of the British Navy, the sole judge of who was and who was not an American citizen. It was not only vexatious but derogatory to our national flag and national honor.

To these outrages upon our commercial and personal rights, Mr. Jefferson and Mr. Madison had opposed embargo and non-intercourse laws, and many very learned and able arguments, going to show that according to Vattel and other approved writers on the law of nations, we were right and the British were wrong.

The course Mr. Madison pursued was deemed too dilatory and inefficient by many of the most ardent democrats.

They thought the character and honor of the nation demanded a more decided and energetic action on the part of the national government. Some of Mr. Madison's warmest friends from the south and west became extremely impatient and restive; and even Mr. Clay was said to have threatened to abandon him unless he would resort to more vigorous and warlike measures. Mr. Clinton's friends in this state had great confidence in his talents, and especially in his energy of character. It was, probably, more for this than any other reason, that some of them expressed a wish to see him elevated to the executive chair of the Union. Mr. Clinton no doubt, more readily listened to these suggestions in consequence of the personal hostility that Mr. Madison had, as he believed, shown towards him. Whatever the motive may have been, I have no manner of doubt, that Mr. Clinton, as early as the summer of 1811, had determined upon taking the field for the presidential office at the next term.

On this occasion, as on many others, Mr. Clinton afforded evidence of a lamentable defect in his character as a politician. That defect was this: a neglect to cast about for means for the accomplishment of his end. His objects were always magnificent, his ends were always such as evinced an elevated and lofty mind, but he did not seem to be aware of the necessity of providing ways and means to accomplish those ends.

How was he to be made president? Was it by the republican party? If so, according to the existing common law of the party, he must have a nomination by a congressional caucus. Could he obtain that nomination? He does not appear to have made any serious effort to do so. Indeed the attempt itself would have been fool-hardiness. Mr. Madison, a man of talents, of pure morals, himself being on the spot, wielding the patronage of the nation, could any reasonable man think of detaching a

majority of his political friends, so decidedly from him as to declare open war upon him by refusing to give him a second nomination ?

Could Clinton hope to succeed against the admitted views of the whole south, and against a regular republican caucus nomination, without bringing to his aid the support of the whole federal party? If he could obtain that support, had he not the best possible reason to apprehend that nearly all his republican friends would abandon him? It might happen, as in truth it did happen, that a considerable portion of his political friends in this state, from personal respect for him, and confidence in him, would adhere to him; but did it not occur to him, that he himself had denounced the leaders of the federalists as men of such vaulting ambition that they had rather "reign in hell, than serve in heaven," and that this denunciation had been rung in the ears of every freeman in the United States? When the great mass of the republicans in the nation saw him acting in concert with a party he had thus denounced, had he not reason to believe they would withdraw from him their support, and treat him as an enemy? It is hardly possible but that these considerations must have forced themselves into his mind. It is, however, too easy for a man to persuade himself that what he ardently wishes should be, will be.

It is not improbable to me that the ardor of his ambition hurried him into a determination to engage in this contest without any regular or fixed scheme of action.

The other project to which I allude, was the plan of establishing a great bank in the city of New-York.

The refusal to re-charter the Bank of the United States; had thrown back into the hands of the stockholders, a large amount of uninvested cash capital; and by this time it began to be perceived that the city of New-York and not Philadelphia, was destined to be the great commercial

emporium of North America. This opinion led enterprising and speculating men, as well as many capitalists, to project the establishment of a great moneyed institution in New-York, with a capital of *six millions* of dollars. An association for the purpose of procuring a charter for such a bank was soon formed, and they early commenced their operations. They knew that the republican members of the legislature would foresee that the majority of the stock, and the consequent control of this gigantic institution, would fall into the hands of their political opponents; and they must have anticipated the jealousy and fearful apprehensions which would be entertained by all the other banks of the state, of the power of a company which was to wield so immense and formidable a capital.

The projectors believed, and correctly believed, that leading federal politicians would support their application, for the same reason that they anticipated opposition from the republican party. They knew that intelligent men of both parties were fully aware of the truth of the position that money is power. They therefore assumed, and the event justified the assumption, that they should have the support of the federal members of the legislature. It was for this reason that their principal attention was directed to the republican members elect. To secure them, or a portion of them, in favor of their project, they early enlisted as their agent David Thomas, a gentleman who had been long a member of congress, a zealous republican from the year 1798, whom we have seen at that time an efficient member of the assembly, and who lately had been turned out of the office of state treasurer, by the united action of the federalists and Lewisites, in consequence, it was said, of his adherence to the republican party. Could such a man be suspected of a want of fidelity to the cause of republicanism? Besides, Gen. Thomas was a silent, cautious man, artful, sagacious, and

possessed of a deep knowledge of men. Gen. Thomas, during the summer of 1811, found it convenient to make an extensive tour through the south-western part of the state, and as he was universally known to be a leading republican, he was naturally brought in contact with the republican members elected to the next legislature, in nearly every county through which he passed. Some of his communications with them will be seen in the disclosures of Casper M. Rouse, which will be detailed in another place. The other prominent agent residing in the interior of the state, whom the company selected and employed, was **SOLOMON SOUTHWICK**. He, as has been before remarked, controlled the paper at the seat of government, which, if not the dictator, was the accredited organ of the democratic party in the state. Though not the silent, cautious, plotting man that Gen. Thomas was, he was, as I have before remarked, exceedingly fascinating in his address, ardent in his pursuits, and almost irresistible in his persuasive powers. He too, was known to be the devoted and confidential friend of De Witt Clinton. These, with other subordinate agents, were the men on whom the company relied to bring to their aid a sufficient portion of the republican party to render their application successful.

I have omitted to mention that on the 8th day of April, 1811, the legislature passed an act appointing Gov. Morris, Stephen Van Rensselaer, De Witt Clinton, William North, Simeon De Witt, Thomas Eddy, Peter B. Porter, Robert R. Livingston, and Robert Fulton, commissioners for taking into consideration all matters relating to inland navigation. These commissioners were authorized to make application to congress, or any state or territory, and request them to co-operate with New-York in the project of improving the navigation between the tide waters of Hudson's river and the great western lakes, to accept of donations from individuals or companies for the promotion

of the object in view, and to ascertain whether loans could be effected on advantageous terms upon the credit of the state. This was the commencement of the canal policy in New-York. It is evident, from running one's eye over the names of the commissioners, that it was not a party measure. The bill was passed by the combined efforts of Mr. Clinton and Gen. Platt in the senate, and by the support of enlightened and liberal men of both parties in the assembly.

In pursuance of the authority contained in the law, Mr. Clinton and Mr. Morris, in December, 1811, visited Washington, and endeavored to obtain from the United States a grant of land in aid of the prosecution of the scheme. In this application they were wholly unsuccessful. Congress declined to act at all in the matter.

The opponents of Mr. Clinton charged this journey as having been undertaken by him for electioneering purposes, and the Martling men scouted the idea of a canal from Albany as so visionary and absurd that no rational man for one moment, could seriously entertain it. A proposition at this day, to construct a rail road from the earth to the moon, could not be treated with more derision than the Martling men treated the canal project. They charged Mr. Clinton with pretending to favor the scheme for no other purpose than to make of it a hobby (a ridiculous one, they said,) on which to ride into power.

The legislature assembled on the 28th of January, and Alexander Sheldon, the old republican speaker, was again chosen to that office, and Samuel North, clerk:

A principal part of the governors speech was occupied in depicting the danger arising from a redundant paper currency. He protested against any considerable increase of the number, or the capital of the banks, evidently with a view to prepare the minds of the members to resist the application for a charter to the Bank of Ame-

rica. "It is questionable," said the governor, "whether they" (banks,) "have not already been multiplied to an alarming extent." It is worthy of remark that the governor in his speech, wholly abstains from any reference to the scheme of internal improvements, or to the proceedings of the commissioners in relation to that important subject. The address of the governor occupies three printed columns in a newspaper, and he deems it necessary to apologize for its "*unusual length*."

If I may venture to express an opinion, I will say, that in my judgment the speeches of Gov. Tompkins are generally extremely well written, and give evidence of highly respectable talents as a writer. Indeed, I think that both his friends and enemies have not done him justice in giving him credit for as much and as high a grade of talents as he actually possessed. But I am wandering from my subject. I referred to the apology of the governor for the *great length* of his speech, for the purpose of remarking that I humbly conceive that a capital error has crept into the executive communications of this and several other states. The duty of the governor is clearly and briefly stated in the fourth section of the third article of the present constitution. "He shall communicate, by message to the legislature, the condition of the state, and recommend such matters to them as he shall judge expedient." It appears to me, he should simply state facts necessary to be made known to the representatives of the people, without comment, and recommend measures merely by laying down propositions without an attempt to prove by argument the correctness of such propositions. His friends in the legislature ought to be able to comment on his facts and to set forth and establish by argument, the fitness of the measures which he recommends; instead of this, our governors have acquired the habit of, I was going to say, declaiming at great length, on the facts they state, and of



going into a train of reasoning to support every position they take in relation to the measures they recommend. In this way our governors will shortly become authors, and write books instead of messages. Is there not something disrespectful to the legislature when a governor elects to occupy their time in animadversions upon, or inferences from the facts he communicates, or in arguments, the objects of which are to prove the fitness of the measures he recommends? Would not a stranger be led to conclude that he thought the persons whom he addressed incapable of judging of the truth and merits of his propositions, unless he should enlighten them by a course of reasoning? It is still worse, it is an insult, to occupy their time in lecturing them like school boys in relation to the principles of our government and on the subject of the natural rights of men. Mr. De Witt Clinton was the first governor who sinned in this respect; and his apology was, that during nearly all the time he was governor, a majority of the legislature was against him, and he had no other means of presenting to the people his principles of action, and the reasons upon which his opinions were founded. This, although it might afford for him some excuse, after all, was rather a sorry apology to his legislative friends who were in the minority.

On the second day of February, the assembly chose for a council of appointment, William W. Gilbert, of the southern; Johannus Bruyn, of the middle; Henry Yates, jun., of the eastern; and Francis A. Bloodgood, of the western districts.

This council was decidedly Clintonian; but the party decrees having been carried into effect by the preceding council, little remained to be done by this. Such appointments, however, as were made, were made in accordance with the wishes and views of Mr. Clinton.

Although the republican party held a pretty strong

majority in the assembly, there were few men among them who possessed much talent as speakers.

JOHN W. TAYLOR, then a young man, and who, for the first time, made his appearance in public life, as a member of assembly, since known as a distinguished member of congress, and speaker of the house of representatives of the United States, was the only republican member of much talent as a debater, or tact in legislation; but as this was his first session, inexperience prevented him from possessing the latter qualification to any degree of perfection: although, he afterwards proved himself, and is now acknowledged to be, a man exceedingly sagacious, and profoundly versed in the ways of men.

Mr. William Ross, a democratic member from the county of Orange, spoke often, but with little effect. Mr. Ross, though an honest and kind hearted man, was a vain man. He was, beyond question, sincerely and warmly attached to the republican party, but his vanity and want of real talent, rendered him rather a cause of amusement than a terror to his opponents. Mr. Van Vechten, from Albany, and Mr. Jones, of New-York, stood at the head of the federal phalanx in the assembly.

On the 5th of February, a bill passed the assembly for the appointment of David Thomas as treasurer, in lieu of Mr. Lansing, by a majority of eight votes: there being only fifty votes for the bill, and forty-two against it. This vote shows that it was not a party vote; for there were, as has been stated, seventy-three republican, and thirty-nine federal members elected. The last legislature was, in both branches, republican, and yet Mr. Lansing was re-appointed treasurer. How came Thomas now to be appointed? Was not his appointment pressed by Southwick and other bank agents and members, in order to give more weight to the exertions it was intended he should make in favor of chartering the Bank of America?

This, too, may have been foreseen by some of the more wary opponents of that measure, and to this, perhaps, was owing the fact that instead of receiving seventy-three votes in the assembly, he actually received but fifty. The bill passed the senate by a vote of nineteen to five, and became a law on the 8th of February.\*

Early in the session the applicants for the six million bank introduced their petition into the assembly. They offered the extravagant bonus of six hundred thousand dollars; to be paid in the following manner, and for the following purposes:—

Four hundred thousand dollars to the common-school fund; one hundred thousand dollars to the literature fund; & 1 hundred thousand dollars to be paid into the treasury at the end of twenty years, provided no other bank should, in that time, be chartered by the state.

The sum of one million of dollars was also to be loaned to the state, at five per cent interest, to be laid out in constructing canals; and one million of dollars was to be loaned to farmers, I suppose, at six per cent.

Mr. Southwick, and the other managers, had early employed a great number of sub-agents, some of whom were officers of the house of assembly, but most of them were low and worthless fellows, who were to carry messages, and listen to what was said by the members, at their rooms and other places, and report at head quarters. Among

\* About this time, there being two vacancies in the board of regents of the University, the legislature proceeded to supply such vacancies. Joseph C. Yates, and Solomon Southwick, were the caucus republican candidates. Judges Spencer and Taylor had exerted all their influence to prevent the nomination of Southwick, but without success; a circumstance, which, considering the great influence of those gentlemen, very clearly demonstrates the almost irresistible influence, at that time, of Solomon Southwick.

Judge Yates and Mr. Southwick were elected, against *Smith Thompson* and *Stephen Van Rensselaer*. Such is the madness of party, and the unreasonableness of individual ambition.

It is deeply to be lamented that party interest, and individual political ambition, should intrude into the calm retreats of science, and the quiet walks of literature

other agents thus employed, was an Irishman by the name of John Martin, who, from being an itinerant preacher of the gospel, had, for a year or two before, devoted himself to the labor of making political converts. So numerous were these sub-agents, (who, by the bye, were generally supplied with handbills containing the printed proposals of the banking company,) that not only the doors of the two houses, but the rooms of members, were besieged by them.

Judge Spencer, Judge Tayler, Governor Tompkins and other leading and efficient republicans, declared open war against the bank, its agents and supporters. Unfortunately, Spencer and Tayler, who took the lead in these denunciations, were known to be interested in the existing banks, Judge Tayler being president of the State Bank, and Judge Spencer being supposed to be largely interested in the same bank, as well as in the Manhattan Bank of the city of New-York. The bank applicants, therefore, charged them, with some degree of plausibility, with being influenced more by selfish views and private interest, than by a regard for the public weal.

Thomas and Southwick, and many other of the bank applicants, were loud in their praises of De Witt Clinton, and declared themselves the advocates of his election to the presidency. Although Mr. Clinton announced that he was against the bank, he was very careful to protest against making a support or opposition to it a test of political merit, or political correctness. In assuming this position, it will be seen that it was adverse to the ground he had taken with respect to those who favored the incorporation of the Merchants Bank. But consistency is not a distinguishing characteristic of politicians. Mr. Clinton frankly told Judge Spencer that, although he should give his vote, if required to vote, against the chartering of the American Banking Company, he should, on no account,

be drawn into a quarrel with the supporters of that measure. This determination led to coldness between these two gentlemen, who were brothers-in-law, and who had, for the long period of fourteen years, (since 1798,) been, politically, cordially united, and personally, ardent friends. A short time afterwards, as we shall see, this coldness produced bitter personal hostility.

Mr. Southwick, in order to justify Mr. Clinton in the ground he had taken, not to allow the support of the bank to be made a political question, and to quiet the tender consciences of his republican friends, who were inclined to support the bank, on the 28th February came out with an article in the Register, in which he argued, that the question of granting a charter to a banking company could not be of a political nature, and concluded by saying that, "He who supports or opposes a bank upon the grounds of federalism or republicanism, is either a deceiver or deceived, and will not be listened to by any man of sense or experience." How different was his language in relation to the Merchants Bank !

The enacting clause of the bill for chartering the Bank of America, passed the assembly by a vote of fifty-two to forty-six. After the question was taken on the first clause, some alarming disclosures were made, of attempts by the applicants to bribe members of both houses; but I propose giving a more detailed account of those proceedings, in the senate as well as in the assembly, in another place. At present, I will merely state the fact, that it was rendered most evident that attempts had been made by the agents of the company, to corrupt the members of the legislature; and yet, that after these facts had been proved, the bank party, in the assembly, increased, as it also did in the case of the Merchants Bank; for, on the final passage of the bill, in the assembly, the vote was fifty-eight to thirty-nine.

The bill was sent to the senate, and when that house was in committee of the whole on it a motion was made to reject it, but the motion failed of success, the vote being fifteen to thirteen. Mr. E. P. Livingston was in the chair, who was known to be in favor of the bill. This trial of strength rendered it certain that the bill would pass the senate, and become a law; whereupon, on the 27th March, the governor sent a message to the two houses proroguing the legislature until the 21st of May.

The cause of the prorogation assigned by the governor, was, that sufficient proof had been furnished to show that the bank applicants had used, or attempted to use, corrupt means to procure a charter.

When the message was read in the assembly a scene of confusion and uproar ensued, and, for a few moments, outrage and violence. Under the constitution of 1777, the governor possessed the power of prorogation, but it had been considered as a remnant of royal prerogative, unsuitable to the genius of our government; and I am not aware that, in time of peace, it had ever before been exercised. But if, as was believed, and is still believed by many intelligent, unprejudiced men, a bill was about to be forced through the legislature by palpably corrupt means, it seems to me any constitutional measure to arrest its progress was justifiable.

The bank advocates in the legislature, had systematically prevented any action on nearly all the important business before them. Holding a majority, they seemed determined that nothing of consequence should be done until their favorite measure should be adopted. The more pressing the necessity of legislation, on any given subject, the more carefully did they watch, and strenuously oppose, final action on it. Of two hundred and forty-two bills, ultimately passed during that session, the greater

part of which were then on their table, they had passed but thirty-nine when they were prorogued.

The friends of the bank resorted to another contrivance. Nearly all of them professed to be in favor of a nomination of Mr. Clinton for president, by a legislative republican caucus; but they, on one pretence and another, refused to go into caucus on that subject until after the question of chartering the bank should be disposed of. This was excessively annoying to Mr. Clinton; for the members of congress had also, for another cause, put off, to an unusually late period, their caucus, which was to be held for the same purpose. A large portion of them, with Mr. Clay at their head, had refused to support Mr. Madison, or go into a caucus, until he should send a message to congress recommending a declaration of war against Great Britain. This, he, for a long time, hesitated to do, and indeed did not do, until June following. Mr. Clinton was, for reasons which must be obvious, extremely anxious that his nomination, if made at all by the legislature of New-York, should be made before a congressional nomination of Mr. Madison should be announced. But the bank men, although professing to be exceedingly anxious for Mr. C.'s success, peremptorily refused to move in the matter until they had procured a charter for their bank. Ought not Mr. Clinton instantly to have cast off such friends?

The bank men, and many other of Mr. Clinton's friends, say, that Gov. Tompkins had, at that time, fixed his eye on the presidency; that he apprehended the success of Mr. C. would be fatal to his hopes in that respect; and that, to prevent the nomination of Clinton by a New-York legislative caucus, before a congressional caucus for the nomination of Mr. Madison could be held, was the true reason and controlling cause of his venturing on so bold a measure as the prorogation. This, however, is matter of conjecture.

Before the members left Albany, thirty-nine republicans signed and published an address to their constituents, approving of the prorogation, and twenty-eight democratic members issued a solemn protest against that measure.

The Albany Register also, came out in open and bitter denunciations against Gov. Tompkins, Judge Spencer, Judge Taylor, Secretary Jenkins, and all who supported them.

In this broken and disturbed state and condition of the republican party the April elections came on. The result was, a small majority of federalists were returned to the assembly, but not so great but that there would, in the next legislature, be a republican majority upon a joint ballot of the two houses.

The federalists carried the southern and eastern districts. In the southern district two republican tickets were supported, each claiming to be the real Simon Pures. The Clintonian republicans supported William Freeman and John Garretson; and the Martling men held up John Bingham and Robert Moore. To show the relative strength, at that time, in the southern district, of the two sections of the democratic party, I give the result of the canvass—

William Freeman received three thousand and twenty-seven votes; John Garretson two thousand nine hundred and fifty-seven; John Bingham one thousand seven hundred and six; and Robert Moore one thousand six hundred and twenty.

The senators elected from the southern district, were Peter W. Radcliff and Elbert H. Jones; middle, Martin Van Buren; eastern, Gerrit Wendell; western, Francis A. Bloodgood, Archibald S. Clarke, Russel Atwater and Henry Hager.

Mr. Hager was from the county of Schoharie; but, according to usage, the candidate ought to have been taken



from the county of Otsego; and a republican convention of the latter county had recommended, to the district convention, Elijah H. Metcalf, Esq., a worthy and popular citizen, who was then a member of the assembly. But Mr. Metcalf had voted for the bank, and the district convention, for that reason, refused to nominate him.\*

On the 20th of April, the venerable vice-president, George Clinton, died at Washington, aged seventy-three years, and thus terminated a long and laborious life, the greater part of which had been devoted to the service of his country. He commenced his public life as a member of the colonial assembly, and, during the stormy period which preceded the American Revolution, he sustained with unshaken firmness the rights of the people. During the whole of the revolutionary war he stood at the head of the government of the state, and was commander-in-chief of the militia. After the close of that war we have briefly sketched his history until he became the second officer in the government of the United States. Every act of his, and every thing which remains of him, affords evidence that he was a man of strong and vigorous intellect, of great decision of character, and that he was a good judge of men, and possessed a profound knowledge of the human heart.

Either before, or during the recess of the legislature, a singular project was formed, to defeat the passage of the bill to incorporate the stockholders of the Bank of America. On the question of approving the bill, in the council of revision, it was supposed that body would vote in the following manner:—

\* About the time of the prorogation of the legislature, a newspaper was established by Judge Spencer, and his immediate friends, in the city of Albany, for the express purpose of counteracting the impressions intended to be made by Mr. Southwick, by means of the Albany Register. This paper was called the Albany Republican, and was printed by one Brown. From that circumstance it acquired the name of "*The Brown Republican*." It expired soon after the election.

For the bill—Lansing, Kent, Thompson and Van Ness.  
Against the bill—The governor, Spencer and Yates.

If, therefore, two members could be added to the council, who were against the bill, it would not become a law, unless passed by two-thirds of both houses: of which, there could be no reasonable apprehension, or expectation.

Shortly after the prorogation, a petition was drawn and circulated, addressed to the council of appointment, praying for the appointment of two additional judges of the supreme court. This petition, after setting forth some reasons for the measure, states as follows:—"We," say the petitioners, "owe it to candor to say that a powerful motive which urges us to request the *immediate* appointment of two judges, is, that they would arrest and prevent the passage of a bill before the legislature, entitled "An Act to incorporate the Bank of America," without waiting for the sanction of the legislature, who can scarcely be supposed to approve a measure to defeat a bill passed by themselves." It will be recollected, that under the old constitution, the council of appointment could create as many judges of the supreme court as they thought proper; but the additional judges, thus appointed, could receive no pay without an act of the legislature. The petition from which I have quoted, was accompanied by a printed circular, signed by Stephen Phelps—(Bates ?) Eli Hill and John C. Spencer, in which they stated that the petition "*was not intended for general circulation, but was to be presented to influential republicans only.*"

Whether this petition was ever presented to the council I am not advised. I cannot imagine a state of things which would afford a justification, or even a reasonable excuse, for such a flagrant abuse of power. That the project was seriously contemplated, I have not a shadow of doubt; for William Ross, of Newburgh, told me he was to have been appointed one of the judges, had the scheme

been carried into effect. The extracts from the petition and circular, were made by me, from a copy of those documents published in the Albany Register in 1812.

The legislature again met on the 21st of May, and the senate immediately resumed the consideration of the bill to incorporate the stockholders of the Bank of America. The opposition to its passage, was ably conducted, and long continued. Among the most zealous and talented opponents of the bill, may be ranked Gen. Erastus Root, of Delaware county, from the middle district, and Gov. Lewis may be considered as its leading and most efficient advocate.

The bill finally passed by the following vote:—

Affirmative—Arnold, Bishop, Haight, Hall, Hopkins, Humphries, Lewis, Livingston, Martin, Parris, Phelps, Platt, Rich, Smally, Smith, Stearns and Taber—seventeen  
Negative—Bloodgood, Carle, Coe, Gilbert, Hubbard, Root, Rouse, Sanford, Tayler, Townsend, White, Wilkin and Yates—thirteen.

All the federal senators, and, I believe, all the federal members of the assembly, except Mr. Lorillard of New-York, voted for the charter.

I have no doubt that corrupt means were used to induce members to vote for this bank; and, on the other hand, I have no doubt that many, I hope a majority, of those who finally did vote for it, honestly believed that the bill had merits, and that the public interest demanded its passage. A question, however, presents itself, of considerable importance to a conscientious man; and it is this:—Grant that the bill, in the abstract, had merits; that had the application come directly from the stockholders, without the interference of agents, or any improper conduct on the part of the applicants, the public interest demanded its passage; but concede further, that corrupt means had been used to induce a part of the members to support the bill,

who, erroneously, but sincerely believed it ought not to be passed: under such circumstances, ought that portion of the members, who honestly believed the passage of the bill advantageous to the public, to have voted for it ?

Immediately after the question in relation to the Bank of America was disposed of, and on the 28th of May, a meeting of the republican members of the legislature was held, at which Gen. James W. Wilkin was chairman, and Alexander Sheldon, speaker of the assembly, was secretary, when Mr. Clinton was nominated as the candidate to be supported for the next president by the republicans of the state of New-York; and his support was recommended to the republican party of the union. A committee of seventeen gentlemen was appointed to use their efforts to carry into effect the objects of the meeting.

Some democratic members from the southern and middle districts, among whom were Gov. Lewis and Nathan Sanford, refused to attend this caucus. These gentlemen professed to be in principle opposed to Mr. Clinton, while others from the interior and western, and eastern parts of the state, although personal friends of Mr. C., and sincerely desirous of seeing him elected president, doubted the expediency of nominating him for that office; because such nomination might, in their judgment, divide and distract the republican party, and would eventually prove injurious to Mr. Clinton himself. I have been informed by gentlemen who were present on that occasion, and who were friends of Mr. Clinton, that so many of the members doubted the expediency of a nomination, that it would not have been made had not Mr. Van Cortland and other members of congress arrived from Washington, urging, and bringing letters from Gideon Granger, post-master general, also urging the immediate nomination of Mr. Clinton. Judge Spencer and Judge Tayler still held back, but finally were induced to attend, rather as specta-

tors, a meeting to deliberate on the propriety of holding a caucus for the purpose of nominating. At that meeting Gen. Root made a long and able speech against the proposed measure. He showed that it could not be successful. That as a republican candidate, Mr. Clinton could not, and as the federal candidate he ought not, to succeed. That the issue of the contest would be ruinous to the political prospects of Mr. Clinton. Gen. Root spoke of the character and talents of Mr. Clinton in terms of high commendation; that the hopes of New-York were in a great degree centered upon him, that his nomination would blight those hopes, and he concluded a most eloquent harangue by exclaiming, "Spare, O spare that great man!" A majority of the members, among whom was that shrewd and cautious politician, John W. Taylor, notwithstanding the opposition, determined to proceed and bring Mr. Clinton into the field. Judge Spencer and Judge Tayler and a majority of the republicans, excepting Mr. Lewis and the Martling men from New-York, and I believe Gen. Root, finally acquiesced in the nomination; at any rate it was understood they would take no steps to oppose it; and I perceive that Judge Tayler was made one of the committee of seventeen. And here I cannot help remarking, that Mr. Southwick, in the Register, was continually charging Gov. Tompkins, Judge Spencer, Judge Tayler, and the secretary of state, Mr. Jenkins, with decided and active hostility to Mr. Clinton, while the New-York Columbian, the paper which seemed to be the accredited organ of Mr. Clinton in that city, claimed these gentlemen as the friends and supporters of Mr. C.

Nothing could have been more impolitic than the conduct of Mr. Southwick, in this respect. He undoubtedly must have been acting from feelings of private resent-

ment towards Gov. Tompkins, Judge Spencer and the others.

The legislature adjourned on the 20th of June, and on the same day congress declared war against Great Britain. In the house of representatives the vote in favor of the bill declaring war, was seventy-nine to forty-nine. Very few of the republican representatives from New-York voted for the measure. They opposed it, not because, in their judgment, the nation had not sufficient cause of war, but because we were unprepared for the commencement of hostilities. Most of the republican members from New-York who voted against the war were Clintonians. In the senate, Mr. German, who, by general consent, was understood to speak the sentiments of Mr. Clinton, made a speech and voted against the war.

The declaration of war by congress, soon became almost the sole matter in controversy between the political parties which existed in the nation. But the party which opposed the war, in point of fact, consisted of two parties. The old federal party opposed the war, on the ground that we had no sufficient cause of war with Great Britain, or if we had, we had still greater cause for war with France; and that if we had commenced hostilities against the latter, the cause of our difficulties with the former would have been removed. Another class of citizens opposed the war, because they believed it declared prematurely, and before the nation was prepared to assume a belligerent attitude.

A very large majority of the old republican party approved of the war, and the time of declaring it.

At the September court of oyer and terminer, held in the county of Chenango, Gen. David Thomas having been arrested on a warrant issued by Judge Spencer, was indicted by a grand jury of Chenango county, for an attempt to bribe Casper M. Rcuse, a senator from that county, to

give his vote for the incorporation of the Bank of America. Judge Van Ness presided on this occasion, and Thomas was acquitted by the jury.

During the same month Solomon Southwick was indicted and tried in the county of Montgomery, before Chief Justice Kent, for an attempt to bribe Alexander Sheldon, the speaker of the assembly, and found not guilty.

I may have occasion to state the substance of the proofs offered to sustain the charges against these gentlemen. At present I will only remark, that the proofs in the case of Thomas as well as Southwick, were very strong, I had almost said conclusive; but that it appeared that both Rouse and Sheldon entertained the propositions made to them, concealed the affront, and for a considerable time, at least several months, treated the men who they alleged had attempted to corrupt them, as associates and friends; and that Doct. Sheldon had voted for Southwick for a regent of the university, long after the attempt to bribe, and long before he made the complaint. By the skill and address of the council who defended Gen. Thomas and Mr. Southwick, the traverse jury seemed to have been made to believe that their business was rather to pass upon the merits of the complainants, than to pronounce on the innocence or guilt of the accused. It did not seem to have occurred to them that both Rouse and Sheldon might be bad men, and yet that Thomas and Southwick might have violated the statute by an attempt to bribe them.

My excuse for mentioning these two cases is, that at the time, the prosecutions were considered to be of a political character, and because Gen. Thomas and Mr. Southwick were considered prominent friends of Mr. Clinton, and the charges against them tended to injure the cause of Mr. Clinton.

In September an attempt was made by some repub-

licans of the union to induce Mr. Clinton to withdraw from the presidential canvass. With this view, Gen. King, then of that part of Massachusetts called the province of Maine, now the state of Maine, and half brother to the late Rufus King, a man of considerable standing in the republican party, visited Albany, and had an interview with Judge Spencer and Judge Tayler, whom he no doubt considered as the friends of Mr. Clinton; in which he stated that as he believed the republicans of the union, and especially of the eastern states, entertained a high respect for the talents and character of Mr. Clinton, he unquestionably stood the first man in the republican ranks at the north; that at a proper time they would gladly yield him their support for the presidency, that at the next election he might be cordially sustained for the office of vice-president; but that the war having been declared under Mr. Madison's administration, the election of Mr. Clinton in opposition to him, would be regarded at home, and especially abroad, as an evidence that the American people were opposed to the war,—an attitude he was sure the majority of the people were unwilling to assume,—besides which, the support of Mr. Clinton by any considerable portion of the republican party, (and without such support it was evident he could not be elected,) would inevitably break in pieces and destroy that party, and give the federalists the ascendancy.

Influenced by these representations and views, Judge Spencer and Mr. Tayler, wrote a letter to Mr. Richard Riker, a prominent member of the Clintonian committee, introducing Gen. King to him, in which they recommended an arrangement which would avoid a competition between Mr. Clinton and Mr. Madison, and they concluded by expressing an opinion that “no event would exalt Mr. Clinton higher than a surrender of his pretensions to the presidential chair.”



To this letter Mr. Riker replied on the 7th October, that Mr. Clinton would not withdraw from being a candidate, that he had been made such by the people, and they had a right to his name. He adds, that the suggestions of Gen. King, that Massachusetts will support Mr. Clinton at the end of four years, cannot be listened to for a moment; and that bargains between politicians are inconsistent with the purity and dignity of republicanism. This correspondence Mr. Riker caused to be published.

It is very evident that Messrs. Spencer and Tayler did not intend their letter for publication. Nor can I perceive in it any evidence of unfriendly feelings towards Mr. Clinton. The publication of it by Mr. Clinton's New-York friends must have been with a view to the manufacture of political capital. Of the expediency or propriety of the act, different men will now, as they did then, form different opinions.

The legislature met on the 2d of November for the purpose of choosing electors. The candidates for the speaker's chair, were Jacob Rutsen Van Rensselaer of Columbia county, on the federal side, and William Ross, on the republican. Mr. Ross received forty-six votes, Mr. Huntington one, and Mr. Van Rensselaer fifty-eight, who of course was elected. This vote showed a federal majority of thirteen in the assembly. Mr. James Van Ingen was elected clerk.

No sooner had the legislature convened, than it was ascertained that about twenty republican members of the assembly would not consent to vote for Clintonian electors. This little band was headed by Gen. Root. Mr. MARTIN VAN BUREN, from the middle district, made his appearance in public life for the first time at this session. He had no agency in the nomination of Mr. Clinton by the legislative caucus on the 28th of May, for he was not a member of the legislature then in existence. What his

private opinion of the expediency of that nomination was, I do not know; but he had been trained up to the doctrine, that on all mere personal questions it was the duty of a politician to go according to the will of the majority of his political friends, when that will was fairly expressed. On the question of the support of Mr. Clinton for the presidency, Mr. Van Buren considered that the republican party had spoken at the legislative caucus in May. The will of the party, as then expressed, he deemed it his duty to aid in carrying into effect.

The parties in the legislature, as to numbers, stood as follows:—in the senate there were nine federalists, four Madisonian and nineteen Clintonian republicans; in the assembly there were fifty-eight federalists, twenty-two Madisonian, and twenty-nine Clintonian republicans. The federalists could and did nominate federal electors in the assembly, and the republicans nominated Clintonian electors in the senate. This state of things, it will be seen, would compel the Madisonians on joint ballot to vote either for Clintonian or federal electors, or not vote at all. In the sequel they adopted the latter course.

Notwithstanding this curious state of things, Mr. Van Buren, on his arrival at Albany, found Mr. Clinton and his friends entirely destitute of any plan of operations. The talents, address and activity of Mr. Van Buren soon placed him at the head of the republican friends of Mr. Clinton in the senate, and in fact in the legislature. A caucus of republican members was held for the purpose of selecting candidates for electors, but such was the obstinacy of the Madisonians that no ticket could be agreed on which they would support. They insisted that a portion of the electors should be run who would vote for Mr. Madison, and to this the Clintonians would not consent. Eventually a Clintonian ticket was agreed upon, at the head of which Judge Yates was placed. That ticket

was nominated in the senate. In the assembly the vote stood for federal electors fifty-eight, Clintonian twenty-nine, and Madisonian twenty-two. Of course the federal ticket was nominated. Upon joint ballot the Clintonian ticket received seventy-four votes, the federal forty-five, and there were twenty-eight blank votes. The Madisonians cast the blank votes. Of course a part of the federalists voted the Clintonian ticket, which gave it a majority of all the votes, and the Clintonian electors were therefore declared duly chosen.

The governor's speech was principally confined to details of the incidents of the war then raging on the northern and western frontier of the state, and the answer to it by the assembly, was rather courteous than otherwise, but pretty clearly indicating the grounds assumed by the federal party during the war.

Upon the canvass of the presidential votes at Washington, it appeared that Mr. Madison had received one hundred and twenty-eight votes, and Mr. Clinton eighty-nine. The states which voted for Mr. Clinton were New-York, New-Jersey, Delaware, all the New-England states except Vermont, and Maryland, gave him five votes. He did not receive a single vote south of the Potomac.

## CHAPTER XVII.

## BANKS.

UNFORTUNATELY the chartering of banks has had a considerable influence on political parties, and their action, in the state of New-York. For this reason the history of political parties among us would be quite imperfect, without at the same time presenting some view of the proceedings of the legislature on the various applications which, from time to time, were made for charters by banking companies. And, on many accounts, I have thought it would be more acceptable to the reader to submit a brief statement of these proceedings, detached, as far as it can be, from other political operations.

The first banking association formed in this state was in the year 1784, when a joint stock company in the city of New-York was organized. The articles of co-partnership were drawn by Gen. Hamilton, and the capital invested was five hundred thousand dollars. (2 *Ham.* 279.)

Under these articles, or constitution, as they were called, the company commenced and continued banking operations, till March 21, 1791, when it was chartered, under the name of the Bank of New-York, which company is now in existence. The articles of association bore date February 26, 1784. It will therefore be perceived, that more than seven years elapsed, after they commenced banking business, before the legislature granted them a charter, and that the state government had been in operation about *fourteen years* before *any* bank charter was granted.

The fact was, the community were smarting under the losses sustained by the continental paper money system.

The legislature of New-York were therefore unwilling, by any act of theirs, to countenance the issue of paper, as *money*, by any association whatever. Hence no charter could be obtained for the only banking company in the state, until after that company had been in operation for more than seven years. "A memorial," says Mr. John C. Hamilton, (2 *Ham.* 340,) "to incorporate the bank of which the constitution had been framed by Hamilton, was presented to the legislature early in 1784, but so prevalent was the jealousy of *moneyed influence* that it was compelled to conduct its affairs during six years without *coporate immunities*. The cry arose that banks were combinations of the rich against the poor," &c. These "corporate immunities," of which Mr. Hamilton speaks, were the privilege of suing in their corporate names, and an exemption of liability of the individual stockholders for a greater sum than the amount of stock held by them. No sane man then dreamed of granting to these companies the exclusive right of issuing and circulating their notes as cash.

In 1792 the Bank of Albany was chartered, with a capital of two hundred and forty thousand dollars; and in 1793 the Bank of Columbia, located at Hudson, where it was proposed to open a foreign trade and to establish the whale fishery business, by a company from Rhode Island, was chartered, with a capital of one hundred and sixty thousand dollars. The Bank of New-York had a capital of a million of dollars. So far, the question of chartering banks had been kept entirely clear of party considerations. It was a mere question whether the convenience of the community, and the exigencies of commerce, demanded these institutions; and, until the year 1799, the sum of one million and six hundred thousand dollars only, was employed for banking purposes.

From the election of John Adams to the presidency, in

1796 party excitement had prodigiously increased, and at no point in the Union was party heat more intense than in the city of New-York: especially from 1798 to 1800. The stock and direction of the Bank of New-York was in the hands of federalists. It had, no doubt, fallen into their hands, not in consequence of any political manœuvring, but by the natural course of trade and traffic among the citizens. Col. Burr, and some of his political friends, believed that the power of that bank was used to patronise and encourage business men who were federalists, and to cramp and embarrass those who held republican principles. Hence the origination of a plan to incorporate an additional bank in the city. But this project could not be carried into effect by the consent of the legislature, inasmuch as a majority of both houses of the legislature were federal; and even the republican part of the members were so jealous of the corrupt influence of moneyed institutions that few of them would consent to charter a bank in a city which already was furnished with one institution. The result, therefore, was a conclusion that the real object of the scheme must be concealed: that is, the legislature must be blindfolded, and, in that condition, must be induced to do that which they would not do with their eyes open. In other words, it was deliberately contrived to cheat the legislature out of a charter; and the following was the scheme contrived:—The yellow fever had then recently made dreadful ravages in the city. That event, with other circumstances, called the attention of the public to the necessity of a plentiful supply of the city of New-York with pure and wholesome water; and the legislature were, with great plausibility, invoked to charter, on the most liberal terms, a company who professed their willingness to undertake so useful an enterprise. As it was uncertain what amount of capital might be required to effect the contemplated object, and with a view to avoid

any chance of failure on account of a deficiency of capital, the company requested to be authorized to raise two millions of dollars; but as it was possible, and indeed probable, that the construction of the water works would not absorb the whole of that sum, they asked for a provision that the "surplus capital might be employed in any way not inconsistent with the laws and constitution of the United States, or of the state of New-York." This request seemed to be but reasonable, and yet, under the authority of these few words, one of the most powerful and formidable moneyed monopolies has grown up that ever existed in this state. It is certain that an immense majority of the legislature did not entertain the least suspicion that this charter contained a grant of banking powers.

Mr. Davis, (*in 1 Burr*, 413,) says, "that it has been said that the charter was obtained by trick and management, and that, if suspicion had been entertained by *any* of the federal members, Col. Burr could not have got the bill through the legislature." Now, I do not contend but that *some* of the federal members may have known that the real object of the bill was to create a bank; but might not those same federal members have had secured to them an interest which would make it profitable to them to have the bill become a law? Was not human nature the same then as it was in 1805, and in 1812, when the Merchants Bank and the Bank of America were chartered? But will Mr. Davis pretend—will any man pretend—that, if a majority of the members had been apprised of the real object of the bill, it would have passed? Certainly not; and Mr. Davis virtually admits it. But Mr. Davis justifies, and claims triumphantly to have justified, Col. Burr, by affirming that he did not *misrepresent* or *misstate* to any member the object he had in view. Indeed! Col. Burr did not positively utter a falsehood, and, therefore, he was not guilty of fraud and trick. By the moral, as

well as municipal law, I had supposed that the suppression of truth, in cases of this sort, rendered the actor equally culpable as would the affirmation of a falsehood. Col. Burr was a member of the legislature, and had solemnly sworn to perform his duty as such member. The bill was hurried through both houses, at the heel of the session, and, in the senate, was reported complete by a select committee, and was never referred to the committee of the whole of that house. True, Mr. Davis says that Col. Burr stated the object of the bill to one federal senator from the western district, who, I infer, was Mr. Thomas Morris.

The attention of the council of revision, to the clause under which banking powers were claimed, was called by the chief justice, to whom the bill was referred. But, from an extract from their minutes, which will be found in 1 *Burr*, 415, it is very evident that it did not seem to the members of that body that in passing that bill they were chartering a bank which was to exist as long as the government lasted. From the words used by the chief justice, who objected to the bill in consequence of the clause in question, he appeared to be apprehensive that the company would employ their capital in trade, &c. The idea of banking, it is most evident, never came into his head. A majority of the council, of which the pure minded John Jay was then president, passed the bill, notwithstanding the objections of the chief justice.

Would John Jay have passed a bill chartering a bank, which he must have known had passed the two houses without their knowledge that it contained such a grant? I do not believe it. It will not be forgotten that the political power created by chartering this institution was eventually used for the prostration of Col. Burr himself, and his immediate friends. Was it not retributive justice?



The next bank chartered, which partook of a party character, was the New-York State Bank, at Albany.

The applicants for a charter for this institution alleged that the bank of Albany was owned by federalists, and that its power was wielded in such manner as to be oppressive to those business men who belonged to the republican party. They further alleged that the public convenience, and the interest of trade and commerce, demanded another bank at the seat of government. So far, all was fair on the part of the applicants. They were open and frank in declaring the object of their application, and the reasons on which it was founded. But, as proof of the monopolizing and greedy spirit of men, a part of whose business it was to drive bank charters through the legislature, truth compels me to state that this *republican* company had connected with their application a most gigantic scheme of speculation, if not of peculation. They petitioned the legislature that, in the same act by which the bank was to be chartered, an exclusive grant might be made to them, or a lease might be given them, of the salt springs in the state for a long time, say sixty years; the company stipulating that salt should always be in readiness, and for sale at the salt works in Salina, at a price not *exceeding five shillings* per bushel; and also that they would pay the state three thousand dollars a year rent, for the first ten years; three thousand and five hundred dollars for the second ten years; and four thousand dollars annually thereafter.† At that time the value of the salt springs was not generally known in the state, and the public were equally ignorant of the expense of manufacturing salt, as is evident from the offer made to put the maximum price at five shillings for the same quantity of salt which, it has since been ascertained, can be manufactured for six cents.

Elkanah Watson, a man who has since been pretty well

† See Note L

known in the state, was the most efficient agent of this company, and there is still extant, and will be found among the curious documents preserved by Doct. Beck, in the Academy at Albany, a printed scheme, drawn by E. Watson, of the mode to be pursued in order so to drill the legislature as to induce them to pass this law. No doubt he, and some others, knew well the value to the state of the salt springs. The petition was signed by John Tayler, Elisha Jenkins, Thomas Tillotson, Ambrose Spencer and others, and was presented to the senate and referred to Mr. L'Homedieu and two other senators, who reported a bill granting the prayer of the petitioners, including the exclusive right to the salt springs ! Some of the western members, who foresaw the exorbitant monopoly which a lease of the salt works for a long term of years would confer on the company, made an outcry about it, and the company prudently consented to strike out that provision in the bill. After this clause was stricken out one would have supposed that the company would have been sure of success by resting upon the merits of the bill. But the company, before their petition was presented, had agreed on a dividend of stock among themselves, and reserved a surplus to be distributed among the members of the legislature. It appears from the affidavit of Luther Rich, a member from the county of Otsego, and several other affidavits, that assurances were given that those members who voted for the bill should have stock, with a further assurance that the stock would be above par. This was the commencement of that corrupt practice.\* I have taken the above account principally from

\* William A. Clark, of Orange county, who, in 1803, was a member of assembly, gave me a different account of the manner in which the stock of the State Bank was distributed. He stated that the applicants founded their claim to a charter upon the ground that it should be a *republican bank*; and with a view, as was pretended, to insure it that character, they agreed that each republican member should be entitled to subscribe for a given number of shares, and that this privi-

a statement signed by Doct. Samuel Stringer and James Van Ingen, as chairman and secretary of a public meeting held in Albany, in the spring of the year 1803. It was, it is true, a party meeting, but as Doct. Stringer and Mr. Van Ingen are known to have been highly respectable men, I cannot believe they would venture to publish any facts, affecting the conduct and character of their neighbors, which they did not know existed. [See Note T.]

It has been already stated that before the State Bank was chartered, a joint stock company had been formed in the city of New-York for the purpose of banking, upon principles similar to the association of the company which commenced the New-York Bank in the year 1784, and that a like company had also been formed in Albany, by the name of the "Mercantile Company." These companies applied for a charter at the same time with the company which composed the State Bank. They alleged that the friends of the latter institution had agreed to support their application; but the State Bank by some means got ahead of the other applications, and when that company had obtained their charter, some of its supporters fell off, and the bills to charter the Merchant's Bank of New-York, and Mercantile Company of Albany, failed of becoming laws. These companies therefore charged the friends of the State Bank with bad faith. •

lege was secured to every republican member, whether he voted for or against the bank. But this does not vary the corrupting tendency of the proposals of the applicants. Admit that such was the fact, and, at the same time, admit, what undoubtedly is true, that it was well known that the shares would sell in market above par, and it required but an indifferent share of common sense for any member to perceive that he would fail in realizing any benefit from the stock unless the bank was chartered; which, again, could not be done unless a majority of the members voted for it.

A story was put in circulation about Judge Peck, (then a member of the assembly,) which has rather too much the appearance of fiction to be entitled to credit, although many, even at this day, believe it. It is said he subscribed for rather an unusual number of shares—and being an influential member it is not improbable that he did so, if he subscribed at all—that he did not choose to subscribe his real name, and therefore adopted for his signature, Jedediah Bushat, instead of Jedediah Peck. [See Note S.]

At the succeeding session, on the 11th of April, 1804, instead of incorporating these joint stock companies, the legislature passed the celebrated restraining law, by which all unincorporated companies, under severe penalties, were prohibited from banking, and by which these companies, although they had invested their money as they lawfully might do, under the existing laws, were compelled to wind up their concerns.

I cannot on this occasion refrain from remarking, that even at that time bank paper was the medium through which business transactions were principally conducted, and the precious metals had ceased to be the circulating medium in the state. The banks, therefore, in point of fact, exercised the power of coining, what for all practical purposes was *the money* of the people.

The aggregate of capital then actually invested in chartered banks in the state, exclusive of the capital of the Manhattan Company, did not at that period, amount to two millions of dollars, and including the whole nominal capital of the Manhattan Company, did not exceed four millions.

Suppose there had been but one company, and this four millions, which probably in fact did not exceed two millions, had been held by such company, and waving any restrictions contained in the United States constitution, it had been proposed to grant this company the exclusive right of issuing or coining money, who would not have been alarmed at such a proposition? Such in effect was the restraining law.

It may, it is true, be necessary for special and peculiar reasons to grant exclusive privileges to an individual, or to a limited number of individuals, but inasmuch as these grants infringe upon the equal rights of all, they ought not to be tolerated except for reasons the most cogent. Because every grant of exclusive rights is the taking pre-

cisely as much from the quantum of rights, to the enjoyment of which the whole community is entitled, as is thus exclusively granted. This position may be illustrated by supposing the whole community to consist of one hundred persons, and that they jointly own one thousand dollars, if then, you grant to an individual, exclusively, one hundred dollars of the joint funds belonging to the hundred associates, there will remain but nine hundred dollars of the aggregate funds of the association.

At the session in 1805, the company composing the Merchants Bank, applied for a charter. The application was based on the ground that more banking capital was required to facilitate commercial and other business in New-York, and that having invested their capital for banking purposes, when by law they had a right so to use it, and having incurred considerable expense in the prosecution of their objects, they claimed from the justice of the legislature either an act of incorporation or the privilege of using their money in the manner they were by law authorised to do when they incurred those expenditures. These grounds would seem to entitle them to some relief. But the leading representatives in New-York, among whom De Witt Clinton was the most efficient, (some of whom being largely interested in, and directors of, the Manhattan Company,) and also, several of the most influential republicans of Albany, at the head of whom were John Tayler and Judge Spencer, and who, by the bye, were deeply interested in the State Bank, warmly opposed this application. They did not ostensibly oppose it because the increase of banks would diminish the profits of existing institutions, but because they alleged that the public interest did not require an additional bank in the city of New-York; and because, as they asserted, the granting of the application *would be injurious to the republican party*. Hence, their papers, the American Citizen, and Albany

Register, were made to announce that the applicants were "federalists and tories," and urge *that* as a reason why the republican members ought not to listen to the application.

The applicants finding they were resisted for reasons exclusively of a party character, which assuredly was wrong, resorted to measures still more unjustifiable than those taken by their opponents, to secure the granting of their charter. Isaac Kibbe, a Burr-ite of some distinction, was appointed their agent. Through him, and through Ebenezer Purdy of the senate, it afterwards appeared that corrupt offers had been made to members of the legislature if they would vote for incorporating the Merchants Bank. The few federal members who then belonged to the senate, voted for it. With them, Messrs. Purdy, Savage, Hogeboom, Burt and other republican members voted, so as to make up the number of fifteen ayes. There were twelve noes.

When the bill came into the assembly, it was taken in charge principally by William W. Van Ness, then a federal member from the county of Columbia. After some proceedings upon it were had in that body, and after a question had been taken on the first clause in the bill, which was adopted by a majority of votes, a complaint was made, that the company had, by their agents, attempted to bribe some of the members of both houses; and a committee was appointed to inquire into the truth of the charge, consisting of Gilbert of New-York; Livingston, German, McIntyre, Arcularius, Sylvester and Lush. On the motion of one of the federal members, the committee, after considerable debate were instructed to inquire if any corrupt means had been used by these *and other* applicants for bank charters, by which it was no doubt intended to inquire into the means used by the State Bank to obtain its charter; but

it does not appear that this branch of the inquiry was undertaken by the committee.

Upon investigation it appeared that the applicants had offered John Ballard, Gurdon Huntington and Peter Betts, members of the legislature, if they would vote for the bank, the right of subscribing for a given number of shares, with a guarantee that those shares should be purchased of them at an advance of twenty-five per cent. It also appeared that Purdy had offered the right to Stephen Thorn, a senator, to subscribe for thirty shares, and promised to advance him five pounds in cash for each share, and also that he had assailed Obadiah German, an influential member of the assembly, with great importunity, promising to him fifty shares, with a guaranty that if he chose to sell them, he should make in clear profit one thousand dollars. These facts appeared from the depositions of Ballard, Huntington, Betts, Thorn and German. But notwithstanding these palpable proofs of attempts at corruption, and the almost irresistible inference that some of the members who voted for the bank had been tampered with, and refused to disclose the corrupt offers which had been made to them, and which they had accepted, the vote in favor of the bill on its final passage in the assembly, was stronger than the vote on its enacting clause. Of the proceedings in the council of revision I have already given an account.

Cheetham, in the American Citizen, had charged the senate with corruption in the passage of the law incorporating the Merchants Bank, and the senate, on motion of Mr. Van Vechten, instructed the attorney general to prosecute him for the libel. Subsequently the attorney general, Mr. Woodworth, in obedience to the resolution, caused the alleged libel to be submitted to a grand jury of New-York, but they refused to find a bill. This affords

pretty decisive evidence of what public opinion was in that city.

During the proceedings in the legislature upon the bill in question, much accrimony among the members was excited. So heated did Judge Taylor and Judge Purdy become, that the former committed a personal assault upon the latter, by knocking him down as he was passing from the senate chamber, and almost within the bar of the senate. What effect these collisions had on political parties I have noticed in another place. [*See Note B.*]

No other applications for bank charters were made, which were seriously pressed until the year 1812, when the Bank of America was incorporated. I have heretofore alluded to the disgusting scenes, which, in the progress of that application were exhibited. From the affidavits of Silas Holmes, Nathaniel Cobb, Bennett Bicknell, A. C. Comstock and Isaac Ogden, all members of the legislature, which will be found at large on the journals of the house of assembly for 1812, it is evident that the most shameless attempts were made to corrupt the members, and there is too much reason to believe that in some instances, those attempts were successful. One is pained and sickened at the evidence these depositions afford of the degeneracy of human nature. John Martin, the preacher whom I have mentioned as a sub-agent of the bank, was convicted of attempting to bribe members of the legislature, contrary to the statute of 1806, and sentenced to confinement in the state prison. I have before alluded to the trial of Mr. Southwick, for an attempt to bribe Mr. Speaker Sheldon, and I shall not now take up the time of the reader by relating the particulars which were disclosed in relation to the disgraceful transactions connected with the incorporation of this institution; but shall merely as a specimen of the mode of management by the bank agents, give a summary of the testi-



mony of Casper M. Rouse, a senator elected from the county of Chenango on the Clintonian ticket in April, 1811, against Gen. Thomas. I have before stated that Gen. Thomas, as the agent of the bank applicants, in the fall of 1811, went on a mission through the southern and western counties. Mr. Rouse says, that Gen. Thomas, in the latter part of October, or first of November, came to Norwich where he resided, and sought and obtained a private interview with him. Gen. Thomas commenced by saying that a scheme of the Lewisites and Martling men, (a party to whom he knew Mr. Rouse was opposed,) had been formed for procuring a charter to another bank in New-York; and that an application would also be made to charter the Bank of America. That if that bank was incorporated, Rouse should have ten shares in it. Rouse then stated that he had not a favorable opinion of banks, and besides he had no money to invest in bank stock. To which Gen. Thomas replied, that if he did not wish to keep the stock he would pledge his honor that he, (R.) should realize one thousand dollars clear profits from the shares. It does not appear that Mr. Rouse gave the General any definitive answer, and Thomas left him with a request that he would call on Mr. Southwick as soon as he could arrive in Albany, when he went there to take his seat as a member of the senate. I seems Rouse did not call on Southwick, nor did he vote for the bank, but about the middle of March, when the bank agents became alarmed for fear of an explosion, Mr. John Van Ness Yates, on Sunday, called on Mr. Rouse, and requested him to call and see Gen. Thomas. He did so, when he, the General, asked him if he had divulged the conversation which took place at Norwich, and Rouse answered that he had not. Thomas earnestly requested him not to do so, and told him, that although he had or should vote against the bank, he *should have his one thousand*

*dollars.* It is hardly possible to suppose that this statement, verified by the oath of senator Rouse, was in substance false. What possible motive could he have had for committing so foul a perjury? If the story of Rouse was substantially true, can there be a doubt of the guilt of Gen. Thomas?

It is proper, however, to add, in justice to the memory of Mr. Thomas, that Rouse voted for him as treasurer in February, in preference to Mr. Lansing, and that Gen. Thomas published an affidavit voluntarily made by him contradicting the material facts sworn to by Mr. Rouse.

No other very serious collisions arose upon the chartering of banks under the old constitution. The odium attached to all those implicated in the corrupt means used to promote the incorporation of the Bank of America, was so great and so lasting that no attempts of the kind were made for a long while afterwards; and the iniquitous proceedings of former legislatures in relation to granting charters to moneyed institutions, had been so disgraceful to the state, and were so fresh in the recollection of the members of the convention of 1821, as, beyond all question, induced them, with a view to the prevention of these practices, to insert the clause in the present constitution which renders necessary the assent of two-thirds of both houses of the legislature in order to incorporate a moneyed institution. The intention of the convention was good, but the clause failed to accomplish the object intended. Witness the proceedings in passing the law to incorporate the Chemical Bank, and other institutions, in 1825. The only effect of the restrictive clause in the constitution has been to increase the evil, by rendering necessary a more extended system of corruption, in some form, than was before indispensable.

Since the disclosures of 1825, no direct evidence of corruption, as a means of procuring bank charters, has been

furnished—but that power of the legislature, guarded as it has been by the restraining law, has in latter years been exercised for rewarding the services of political partisans; a practice, which, when viewed in all its consequences, is more dangerous than that pursued by the applicants for the Bank of America. In the one case, the applicants corrupted those to whom the people had delegated power; in the other, the very source of power is intended to be corrupted—in the one, the legislature were corrupted by the applicants; in the other, the legislature corrupted the people.

I will dismiss this subject after submitting one or two remarks.

In my judgment, at the time the Manhattan Bank was chartered, an additional bank was required in the city of New-York; and further, I believe that the applications to incorporate the State Bank, the Merchants Bank, and the Bank of America, were meritorious, and ought, standing on their own merits, to have been granted, and that the error consisted in permitting those interested in banks to make a political question of a matter not properly such, with a view to subserve their own individual interests. \*

That if banking is properly regulated, as it is under the safety fund law the multiplication of banks to any reasonable extent, can have no other effect than that of diminishing the profits of existing banks, and even if banks are multiplied so as to render money invested in them unproductive, no serious evil can ensue; for the stockholders can, beyond a doubt, at any time pay back to each one his share of the capital, and on payment of the liabilities, invest their money in some more profitable business.

That the question arising on the chartering of a bank, therefore is not political, but is a question affecting principally the stockholders of existing banks, and those who

\* See Note U.

wish to become stockholders; and that, therefore, the real question is, or rather was before the passage of the free banking law, between monopolists and those who desire to become monopolizers.\*

That such a heartless controversy should repeatedly have convulsed and broken up great political parties, that it should in its progress have blasted the prospects and destroyed the usefulness of so many talented, and in other respects worthy citizens, and finally, that it should have marred the character for purity of our state legislature, and fixed an indelible and enduring stain upon the reputation of the empire state, is deeply to be deplored.

\* The question respecting chartering a national bank involves other and very different considerations.

## CHAPTER XVIII.

FROM MAY 1, 1812, TO MAY 1, 1813.

SHORTLY after the peace of 1783, a society was formed in the city of New-York, known by the name of the Tammany Society. It was probably, originally instituted with a view of organizing an association antagonist to the Cincinnati Society. That society was said to be monarchical or rather aristocratical in its tendency, and, when first formed, and before its constitution was amended, on the suggestion of General Washington and other original members, it certainly did tend to the establishment of an hereditary order, something like an order of nobility. The Tammany Society originally seems to have had in view the preservation of our democratic institutions, as far as possible, from contamination by the adoption of any of the aristocratic principles which were connected with the governments of the old world.

A sketch of the prominent features, and of the history of the Tammany Association, has been kindly furnished me by an old and highly respectable citizen of New-York, the Hon. Judah Hammond, which, without having obtained his express permission, I take leave to insert:—

“Tammany Society, or Columbian Order, was founded by William Mooney, an upholsterer residing in the city of New-York, some time in the administration of President Washington. The institution takes its name from the celebrated Indian Chief Tammany, whose attachment to liberty was greater than his love of life. It has a Grand Sachem and thirteen sachems, in imitation of the president and governors of the states, at the time it was founded; a secretary, a sagamore, the master of ceremonies, and a

wiskinkie, the door-keeper; a grand council, of which the grand sachem and the other sachems are members. The father of the council is the presiding officer; the scribe records the proceedings of the council. The laws mention the council fire, the calumet, or pipe of peace, and the tomahawk, which they bury when the pipe is smoked. It dates from two eras, the discovery of America by Columbus, and the founding of the institution. It divides the year into seasons, as the season of snow, the the season of blossoms, the season of fruits. The twelfth day of May is kept as its anniversary.

"William Mooney was one of those who, at that early day, regarded the powers of the general government as dangerous to the independence of the state governments, and to the common liberties of the people. His object was to fill the country with institutions designed, and men determined, to preserve the just balance of power. His purpose was patriotic and purely republican. The constitution provided by his care, contained, among other things, a solemn asseveration, which every member at his initiation was required to repeat and subscribe, that he would sustain the state institutions, and resist a consolidation of power in the general government. Tammany was, at first, so popular, that most persons of merit became members; and so numerous were they that its anniversary was regarded as a holiday.

"At that time there was no party politics mixed up in its proceedings. But when President Washington, in the latter part of his administration, rebuked "self created societies," from an apprehension that their ultimate tendency would be hostile to the public tranquility, the members of Tammany supposed their institution to be included in the reproof; and they almost all forsook it. The founder, William Mooney, and a few others, continued steadfast. At one anniversary they were reduced so low that

but three persons attended its festival. From this time it became a political institution, and took ground with Thomas Jefferson. The writer of this article joined it about the year eighteen hundred and three. At the time of his initiation the regular meetings were ordinarily attended by about ten or fifteen members. The institution gradually increased in numbers, and made a great rally about the year eighteen hundred and twelve, in support of president Madison's administration, and to secure his re-election in that year. Five hundred new members were initiated in one year, and there was a great return of old members who had been lax in their attendance. About the year eighteen hundred and fourteen I ceased to be an attending member, and consequently lost sight of its internal polity, and know not what intestine changes have passed upon its ancient lineaments, further than these are discernible in its public policy."

The leaders of the party in the city of New-York, which I have described under the denomination of Martling men, were generally members of this society. Thus organized, they were enabled to act with prodigious effect upon the democratic party in the city. By their efforts, and by the course taken by Mr. Clinton, which was sometimes, to say the least, indiscreet, before the year 1813 an immense majority of the republicans of New-York became decidedly opposed to him; and the united influence of the democracy of that great city, it will readily be perceived, was calculated to have a considerable influence upon the republican party in the state.

The Tammany or Martling party were extremely apprehensive, that Mr. Clinton's standing among the republican members of the legislature from the country, was still such, as would enable him to induce a majority of them to consent to his re-nomination as lieutenant governor. Under these impressions, early in January they got

up a meeting in the city, at which they recommended a state convention for the purpose of nominating a governor and lieutenant governor. Of this meeting, Jonathan Thompson, afterwards collector of the port, was chairman, and John L. Broome, son of the late lieutenant governor, was secretary.

About this time a new paper, which was understood to be the organ of the Tammany party, was established in New-York, under the name of the NATIONAL ADVOCATE. Henry Wheaton, then recently from Rhode Island, and since well known as a man of distinguished talents, was its editor.

The legislature met at Albany on the 12th of January, and on the same day chose a council of appointment. The gentlemen elected, were Peter W. Radcliff from the southern, James W. Wilkin from the middle, John Stearns from the eastern, and Jonas Platt from the western districts. All of these gentlemen were federalists, except Gen. Wilkin, who was elected because there was no federalist in the senate from the middle district.

As the term of service of Gen. John Smith, in the senate of the United States, would expire on the 4th March, it became necessary for the legislature to appoint a successor.

It has been stated that there was a federal majority in the assembly, but that in the senate the republican majority was greater than the federal majority in the assembly. It was, therefore, fair to presume that a republican senator on a joint ballot would be chosen; but the event disappointed that reasonable anticipation. Mr. Rufus King was nominated by the assembly by a vote of fifty-five to forty-four, and Mr. James W. Wilkin, a senator from Orange county, was chosen by the senate. Upon a joint ballot Mr. King had sixty-eight votes and Gen. Wilkin sixty-one. There were three blank votes. What was



the cause of this result? By the Tammany party it was charged to Mr. Clinton. They alleged that this was the consideration for which the federalists, in November, were induced to give the Clintonians the presidential electors. On the other hand, the republicans who had supported Mr. Clinton insisted, that it was the result of a bargain made by Gen. Thomas and Mr. Southwick, by which they agreed, that if the federalists, as a body, would vote for the incorporation of a bank, they would secure to the federal party the election of the next senator; and there is a fact within my knowledge which induces me to believe that the latter supposition is the more probable.

In the year 1817, when Mr. Clinton was a candidate for nomination for the office of governor, by the republican members of the legislature, this charge was brought against him. Gen. Wilkin was then a member of congress and at Washington. I was there also. Mr. Clinton addressed to me a letter stating that a report was in circulation charging him and his friends with having, in pursuance of a previous agreement, combined to defeat the election of Gen. Wilkin to the senate of the United States, and requesting me to call on him and obtain his contradiction of it. I did so; and Gen. Wilkin addressed to me a letter, which I forwarded to Mr. Clinton, and which is probably now among his papers, in which Gen. W. declared his utter disbelief in any foundation for the report. He was convinced, he said, that his election was defeated by the influence and votes of the friends of the bank. Besides, it would have been so vile an act of treachery in Mr. Clinton to sacrifice so constant and steady a friend as Mr. Wilkin, and the man who had been president of the legislative caucus which nominated him for the presidency,

\* As an act of justice to Mr. King, it is proper to state that no individual of any party ever suspected that he was a party to, or had knowledge of, any negotiation either with the Clintonians or the bank men.

that so heinous a charge ought not to be sustained or tolerated without strong and positive proof. I am, however, inclined to believe that the knowing ones in the republican party had made some discoveries by which they had reason to believe that the chances of success in the election of a republican senator, was, to say the least, very dubious. The office was a desirable one to men of the first talents and standing in the state; and Gen. Wilkin, though a perfectly amiable and very upright man, had not that high standing and powerful influence in the party which several other republicans in the state had; and, it seems to me, that had they been sure that a republican senator would have been elected, a sharper competition for the office would have been exhibited, and probably some other person would have been nominated.

In August, 1812, the attorney general, M. B. Hildreth, died, and Thomas Addis Emmett, the celebrated Irish advocate, was appointed his successor. The misfortunes, persecution and sufferings of that great and good man in his native country, the purity of character and exalted virtue he evinced, and the splendid triumph he deserved and obtained in his adopted country, are well known; but his wonderful powers of mind, his transcendent talents, and his unrivalled eloquence as an advocate, will not be known to posterity, because all those who heard him and felt the powers of his mighty intellect, (and none but such can form an adequate idea of his merits and superiority over all other men,) will soon follow him to the tomb. Mr. Emmett did not seek the office. The state administration invited him to accept it, and I apprehend the especial reason of their doing so was that they might avail themselves of his talents on the trial of Thomas and Southwick.

The last act of the council which was chosen in the year 1812, was their best act. On the 14th January, they appoint-

ed Gideon Hawley, Esq. under the law passed by the last legislature for the better organization of schools, superintendent of common schools. Mr. Hawley was then a young lawyer resident in Albany, of habits indefatigably industrious, modest and retiring, but possessing great benevolence of heart, vigorous intellectual powers, and high literary attainments. For the paltry salary of three hundred dollars a year, he perfected a system for the management of the school fund; the organization of every neighborhood in this great state into school districts; for a fair and equal distribution of the bounty of the state into every district; and he devised a plan of operations by which this vast machinery could be moved and managed by a single individual. The state have never rewarded him for his labors, but posterity will, it is believed, do justice to his merits, his services and his character. If the man who invents the means of improving the working of inanimate machinery, in controlling its power, or in changing the face of the globe by artificial water communications, be, as he truly is, entitled to the gratitude of his fellow beings, what meed of praise does that individual deserve who efficiently aids in pouring a flood of light on the human intellect, and adding indefinitely to the mass of mind?

The federal council met for the first time on the the eighth day of February. A difference of views among the then federal members, was disclosed in the first appointment which was made. Gen. Platt moved the re-appointment of De Witt Clinton as mayor of New-York, and to this appointment Mr. Radcliff objected. A majority however, voted in favor of the appointment, and it was effected, but Mr. Radcliff caused his dissent to be entered on the minutes of the council. The particular cause of Mr. Radcliff's dissent was, that in 1810, his brother, Jacob Radcliff, (formerly a judge of the supreme court,)

had by the Robert Williams council been made mayor in place of Mr. Clinton, and in the succeeding year had been compelled to give place to Mr. Clinton. The dissent therefore, of Mr. Radcliff may have been caused more by fraternal affection than the *amor patriæ*. But what could induce Gen. Platt to have taken a course on this single appointment, which he must have foreseen would produce a state of feeling, that would embarrass their proceedings at that critical juncture of the fortunes of the federal party, through the remainder of the time in which that council would exist ?

Mr. Platt, who at this time may be regarded as the most influential man in the federal party, was a lawyer who had been in extensive practice, and though his talents were not brilliant, they were of a character highly respectable; his morals were perfectly pure; though he possessed a deep and intense tone of feeling, and a high sense of personal honor, he had acquired, apparently, an entire control over his passions; his quiet and calm deportment indicated a contemplative and considerate mind, not liable to be hurried into the adoption of ill-adjusted plans, or to determinations which might lead to actions indiscreet or ill advised. His address was unobtrusive, modest and conciliatory. He had a high regard to courtesy and propriety, as well in respect to political conduct as in the private and social concerns of life. He and other leaders of the federal party in New-York, had within a few months past, recommended to their political friends in the other states of the union to support Mr. Clinton for the first office in the nation. Since that support had been given in pursuance of such recommendation, no man could pretend that Mr. Clinton had done anything to lessen him in the estimation of the federalists. In what light then would Gen. Platt and his friends in this state appear to their friends abroad, and to the American public in gene-

ral, were they to refuse to re-appoint, and were they, in effect, to *remove* from the comparatively petty office of mayoralty of New-York, (an office, the duties of which it is universally admitted Mr. Clinton had discharged with great ability and to the entire satisfaction of the citizens,) a man whom they had so recently recommended as fitted for the office of president of the United States ?

This consideration alone, must have had a powerful effect on the mind of Gen. Platt; while it seems not at all to have reached the sensibilities of his colleague of the southern district. But there were other considerations, which, no doubt, bore with great force on the minds of Mr. Platt and Mr. Stearns.

From the course of conduct of Gov. Tompkins, Judge Spencer and Mr. Tayler, towards Mr. Clinton, for the year past, they had reason to anticipate what eventually took place, that he would oppose the re-election of Gov. Tompkins. Is it not probable that they had direct assurances to that effect ? They no doubt mistook and over-rated the influence of Mr. Clinton among his republican friends. In aid of that delusion, they already learned that some of his most prominent friends, as the Van Cortlands, Gen. German, and sundry other distinguished men were in advance of Mr. Clinton in denouncing Gov. Tompkins, Judge Spencer, &c., but they did not know, or if they knew, they did not properly appreciate the principles which had influenced the rank and file men of the republican party who had supported Mr. Clinton for the presidency. Of the principles which governed this by far the most numerous class of Mr. Clinton's republican friends, I shall have occasion to speak in another place.

For the reasons which I have assigned, Gen. Platt would not consent to gratify the ardent desires of Mr. Radcliff, by the appointment of his brother as mayor of

New-York, to the exclusion of Mr. Clinton. Mr. Radcliff took honor to himself for being a federalist of the old school, one of the leading maxims of that school being, to wage a perpetual war against every man who had appeared in the ranks against them, however effectually his political views and principles might have changed. A most reasonable and sagacious policy for the government of a party in the minority, who are struggling to regain power. Mr. Radcliff, by his conduct in this council, lost the confidence of his political friends, which he never afterwards regained.

The council met again on the 13th of February, when Mr. Platt moved that Thomas Addis Emmett be removed from the office of attorney general. On this question Mr. Radcliff refused to vote, but Mr. Stearns voting for the resolution, although Mr. Wilkin and the Governor voted against it, it was declared carried; no doubt on the ground, that by the constitution the governor had a casting vote only, and that here could be no tie, two members of the council voting for and only one against the motion. As Mr. Radcliff refused to vote he was regarded as absent.

It was now evident that Mr. Radcliff was determined to embarrass the proceedings of the council, for Mr. Emmett was one of the most ardent friends of Mr. Clinton; and if Mr. R. as a federalist of the old school, was warring against Clintonians, why should he refuse to vote on the question of Mr. Emmett's removal? The office of attorney general having become vacant by the removal of Mr. Emmett, Mr. Van Vechten was appointed in his place.

It is probable that Mr. Platt found that his federal friends would not be satisfied, if the council continued the Clintonians in office. They also held to the maxim long afterwards announced, that "to the victor belong the spoils;" for I perceive that the Clintonians in New-

York, who filled some of the most lucrative offices in the city, were nearly all removed and federalists appointed in their places. Among these were Gerrit Gilbert, son of Senator Gilbert, who was removed from the office of clerk of the city and county, and P. C. Van Wyck, from the office of recorder. Mr. Platt moved for the displacing of Mr. Van Wyck, and his motion was adopted by the votes of the three federal councillors. He then nominated J. O. Hoffman for a successor. Mr. Radcliff nominated Caleb S. Riggs, a *federalist of the old school*, but Mr. Hoffman was appointed by the votes of Platt, Stearns and *Wilkin*. Mr. Radcliff moved the removal of Sylvanus Miller from the office of surrogate, *and the appointment of Peter Hawes in his place*. Mr. Platt objected to the form of the motion as embracing too much. The question was put and negatived by the votes of Platt, Stearns and *Wilkin*. It is more than probable that the cause of Mr. Radcliff's opposition to Mr. Hoffman, was that he was known to be favorable to the re-appointment of Mr. Clinton.

The removal of republicans and the appointment of federalists, including little as well as great offices, by this council, was general throughout the state.

The Bank of America applied to be relieved from payment of the bonus, the payment of which was by the act of incorporation, made a condition upon which their charter was granted. They alleged that it was impossible to get their stock taken if the bank was to be charged with such heavy payments, and they also asked a large reduction of their capital. With respect to the reduction of their capital the legislature granted their request, and they remitted the whole of the bonus with the exception of one hundred thousand dollars, which was to be paid to the common school fund.

A strenuous opposition was made to this application by

the former opponents of the bank; and it was charged in private circles and in some of the public papers, that the bank had again resorted to corrupt means to accomplish its object. Whether these allegations had any foundation in truth, we have at this day no means of knowing, as no depositions were taken.

On the 28th of January of this year, Robert R. Livingston, late chancellor, died, in the sixty-sixth year of his age. His life had been active and useful, and in politics, he long occupied a large space in the public mind. I have before spoken of his talents and address. Whatever were his merits as a judge, or a politician, and they were by no means inconsiderable, his less brilliant efforts in improving the breed of sheep in his native country, and the liberal encouragement which by his wealth and influence he afforded Mr. Fulton in his discoveries of the means of applying steam power to navigation, will do more to perpetuate his name and fame, as a benefactor to his country, than his address and skill as a political leader, or his splendid display of eloquence while a member of that grand council which adopted the federal constitution. By his death the Livingston family were emphatically deprived of their head; and since that event, and the removal of Edward Livingston from the state, and the appointment and acceptance of Brockholst Livingston, of the office of associate judge of the United States, and afterwards his death, the influence of that family, as such, can hardly have been felt in the political operations of parties in the state. *to do.*

Charles Z. Platt, a federalist, was, by a law of the two houses, created treasurer, in lieu of Gen. Thomas. This act was passed on the 10th day of February.

Very sharp collisions began to be exhibited between the two houses of the legislature, on all questions of legislation which related to the prosecution of the war against



Great Britain. The state presented a frontier which was eminently exposed to the attacks of the enemy, on its southern, northern and western borders. This rendered the duties and responsibilities of the governor uncommonly laborious, and very great; and he was by no means wanting in his efforts to discharge those duties faithfully and efficiently. The democratic majority in the senate, manifested every disposition to aid him by all constitutional means, while the federal majority in the assembly wished not to go farther in support of a war which many of them professed to believe unjust, and all of them believed prematurely declared and badly conducted, than was demanded of them by a strict construction of the constitution and laws of the United States.

The militia, which had been called out by the governor, the last autumn, under the command of Gen. Van Rensselaer, had returned dissatisfied with the service, and with the arrangements made by the government for their management and support. They were also disgusted with the ill judged and unsuccessful attack on the British soldiery at Queenstown. The federalists availed themselves of this, and all other unsuccessful efforts to carry on the war; and their movements in the assembly tended rather to excite than quiet discontent.

The national government, soon after the commencement of the war, became embarrassed for the want of funds to carry it on; or rather, they found it difficult, if not impossible, to collect the revenue in that kind of money, or negotiate their stock for that sort of currency which, constitutionally speaking, might be called money. The United States Bank had ceased to exist, and there was, therefore, no national paper currency. Great Britain then controlled, as now she continues to control, the money market of the world; and she being our enemy, specie could not be obtained from abroad, nor, in fact, could for-

eign loans, in the then state of Europe, have been effected, had the effort been made to do so. The national government, therefore, had no other means of defraying its expenses than by borrowing money of the banks chartered by the different states, on the credit of its stock, and by issuing, for circulation, its own notes called treasury notes. But the banks of Boston, and indeed the whole of New-England, were mainly under the control of federalists, and they refused to loan a single dollar to the government, or to do any act which might give credit or currency to treasury notes. Of course the national treasury was supplied by loans from the state banks south and west of New-England, and the disbursements made in the paper of the banks last mentioned. It was evident that one of two results must be produced by these operations: either all the specie in the United States would flow into the vaults of the New-England banks, or the banks of the states, other than those of New-England, must suspend specie payments; and the latter course was adopted. The consequence was, that the bank paper in this, and in all the states south and west of it, forthwith began to depreciate. The paper of the New-York banks was the nearest in value to specie, but the further you advanced south or west from New-York, the greater, generally speaking, was the depreciation.

In this state of things, a resolution, purporting to be joint, passed the senate, that the state should loan to the nation five hundred thousand dollars, the better to enable it to sustain its credit and make its necessary disbursements. This measure was advocated with great power and effect by Mr. Van Buren, Gen. Root and Gov. Lewis; but when the resolution was sent to the assembly it was there met by the zealous, and finally successful, opposition of Attorney General Van Vechten, Elisha Williams, an able and eloquent lawyer from Columbia county, and Mr.

Daniel Cady of Montgomery. In that house the republican party were defective in *speaking* talent. Mr. Ross, it is true, spoke often, but his arguments failed in producing much effect when put in competition with such giants as Elisha Williams and his compeers. The burden of resisting the federal majority fell principally upon John W. Taylor, of Saratoga, who, though not a brilliant man, was a man of excellent good sense, and a wary and cautious debater.

On the fourth day of February a legislative caucus was held by the republican members, for the purpose of nominating a governor and lieutenant governor. According to the Albany Register only forty-eight members attended on this occasion. What was the reason that no greater number was present does not appear. It may be, that some members declined to attend in consequence of the resolutions of the Tammany men in favor of a state convention. As respected the candidate for governor the meeting were unanimous, but there was a difference of opinion as to who should be supported for lieutenant governor. A portion of the members still adhered to Mr. Clinton, and were for re-nominating him. Judge Spencer had, for some time, openly denounced him, and both he, and his friend, Col. Jenkins, were exceedingly active in opposing Mr. C.'s re-nomination.

There can be little doubt, that the confidential and secret, if not the open and avowed, influence of Gov. Tompkins, was exerted against Mr. Clinton. Whether Mr. Van Buren took an active part either way, I am not advised; and, from the circumstance of his not being assailed in the Albany Register, I am inclined to believe, that, at any rate, he did not take a very active part against Mr. Clinton. The result finally was, that Mr. Clinton received but sixteen votes, while John Taylor received thirty-two votes, and was declared duly nominated. Mr. Van Buren

drew the address issued by the republican members on this occasion. It has been often referred to by his friends, and so full an account has been given of it by his biographer, (Holland,) that little need be said of it here. I ought however, perhaps to add, that the address contained a lucid and able review of the controversy between America and Great Britain. It sustained, with strong force of argument, the course which had been pursued by the national government, and appealed, with great pathos and eloquence, to the patriotism of the people.

Mr. Van Buren has been blamed for his support of Mr. Clinton, as inconsistent with the zealous support he yielded to the war, and to the re-election of Mr. Tompkins; and, as is usual in such cases, both Clintonians and Madisonians have cast imputations upon him, but, in my judgment, wholly without cause.

A large majority, if not all the members of the New-York legislative caucus, which nominated Mr. Clinton for the presidency, were ardent in support of the war measures pursued by the national government, and many of them were dissatisfied with the sluggish movements and inertness of Mr. Madison. I presume one reason why they preferred Mr. Clinton to Mr. Madison, was, because they believed the former would pursue the war against Great Britain with more efficiency and more energy than the latter, but they had not the most distant idea of separating themselves from the great republican party in the state or nation. At any rate, I know this to have been the feelings of Mr. Clinton's republican friends in the country. I can have no doubt that Mr. Van Buren entertained similar impressions. Besides, he was not a member of the legislature which nominated Mr. Clinton. He only saw in the result of that caucus an expression of the wishes of the republican party on a given question. Was he wrong in attempting, in good faith, to carry those wishes into

effect? Why, then, should the minority of the republicans, who thought Mr. Madison ought to be supported, condemn Mr. V. B. for the course he took? Was it not his duty, and had he not the same right to follow the honest dictates of his own judgment as they had, especially where he had evidence that his own views were in accordance with those of the republican party in the state, as declared by their representatives?

Mr. Clinton, and his immediate friends, had still less reason to complain of Mr. Van Buren for supporting Tompkins. The presidential question was disposed of. A new question was presented, and that was, whether, in accordance with the wishes of those who had elected him, he would support the republican candidate for governor, or whether, contrary to the principles he had professed from his boyhood, he would support a federal candidate for governor, simply because Mr. Clinton did not choose to support the candidate of the republican party? No man possessing common honesty, and a particle of self respect, could, without feelings of resentment, hear such a question even agitated in his presence. Conceding that Mr. Van Buren was, in principle, attached to the republican party, his conduct was not only politically, but morally justifiable. Indeed, it could not have been other than it was, without a palpable violation of principle and of duty.

On the 11th of February the federal members of the legislature, together with many respectable citizens, held a caucus at Albany, of which Judge Egbert Benson was chairman, and Daniel Parris was secretary; at which Stephen Van Rennselaer was nominated for governor, and George Huntington, of Oneida county, for lieutenant governor.

The private characters of these gentlemen were, in all respects, perfectly unexceptionable, and high hopes were

entertained by the federalists of success.\* A circumstance which added considerably to these hopes, was, that an address was issued signed by Philip Van Cortland, Obadiah German, and thirty-nine other distinguished friends of Mr. Clinton, who claimed to be members of the republican party. The address attacked, with severity, the conduct of the general administration; reviewed the presidential contest; and protested against the support of Tompkins and Taylor, alleging, that they were the mere partizans and tools of the cabinet at Washington. It was extremely well written, and from its style and matter, was, with great probability, ascribed to the pen of Mr. Clinton.

It is scarcely necessary to remark, that the general election in April was very severely contested; but, contrary to the expectation of calculating men of both parties, and to the bitter mortification of the federalists, Tompkins and Taylor were elected, and the republican senatorial ticket succeeded in three, out of the four districts.

Jonathan Dayton was elected to the senate from the southern, Lucas Elmendorff and Samuel C. Ver Bryck from the middle, James Cochran and Samuel Stewart from the eastern, and Farrand Stranahan, Henry Bloom and Pearley Keyes from the western districts.

\* In consequence of the last census, a new apportionment of representatives in congress was made, and, therefore, a new division of the state into congressional districts should have been made by the legislature, at their winter session in 1812; but the prorogation prevented the passage of such an act before the April election. For this reason the election of members to the house of representatives did not take place until after the November session, when the proper law was passed, and an election ordered in December following. At that election, out of thirty representatives, the federalists elected two-thirds. The result of this appeal to the people, as was alleged, on the war question, afforded great triumph to the opponents of Mr. Madison's administration, and increased the already sanguine hopes of the federalists, of success at the general state election in April.

The venerable Egbert Benson was chosen from the second district, which included the city of New-York. He was far advanced in life, but the residue of the federal members were most of them comparatively young men. Hence they were called "*Judge Benson's boys*," being nineteen in number. The appellation was the more ludicrous because the judge was a bachelor.

The result of the vote was as follows:—

Southern District, Rep. Maj.	593
Middle       "       "       "	1452
Western       "       "       "	3274
	<hr/>
	5319
Eastern District, Fed. Maj.	1713
	<hr/>
Rep. Maj. in the State,	3606

But, notwithstanding this success in the senatorial districts, and in the election of governor, the federalists obtained a majority in the assembly, in consequence of the election of federal members, by a small majority, from the city of New-York.

The very decided part taken by Mr. Southwick, in the Albany Register, against the election of Gov. Tompkins, and indeed against the republican party in the state and nation, induced the establishment, during the summer of 1813, of the Albany Argus, under the charge of Jesse Buel, Esq., who had formerly printed the Plebian, in the county of Ulster. Mr. Buel, though not a brilliant, was a very discreet and judicious man, and the Albany Argus soon became the organ of the republican party at the seat of government.

Upon the pressing recommendation of Judge Spencer and Gov. Tompkins, and other friends to the national administration, Gen. John Armstrong had, in the autumn of 1812, been appointed secretary of the department of war, and he now began to be talked of as the most suitable man to succeed Mr. Madison in the presidency. Judge Spencer, who had always been, and to this day continues to be, his devoted friend and admirer, was loud in his praise, and openly spoke of him as a candidate.

In the autumn of this year Mr. Curtinius was removed from the office of marshal of New-York, and Gen. Smith,

United States senator, appointed in his place. Mr. Schenck was also removed from the office of surveyor of the port of New-York, and Mr. Haff was appointed his successor. These removals were made upon the pressing recommendation of Judge Spencer, as was alleged, for no other cause than that the incumbents were the political and personal friends of Mr. Clinton.



## CHAPTER XIX.

FROM MAY 1, 1813, TO MAY 1, 1814.

GOVERNOR TOMPKINS had by this time obtained a strong hold on the feelings of the citizens of this state. He had avoided so far as he could, a direct collision with the friends of Mr. Clinton. Although Clinton being a man of that temperament and character of mind, that whenever he discovered that a person professing to be his political friend, declined entering into all his views, forthwith broke off all political intercourse with him; (which perhaps was a fault,) and therefore, by this time, was open in his denunciations of Gov. Tompkins, still the governor contrived to retain the friendship of many Clintonians. This result was the more easily produced, because Judge Spencer, always open in his hostility, always ardent and sometimes bitter in his political controversies, was waging a most furious war against Mr. Clinton, and all his supporters; and in consequence thereof, was much more the subject of attack in the Clintonian newspapers and public and street conversation, than the governor. Tompkins was by no means displeased with this state of things. He had already cast an eye upon the presidency, and the late defeat of Mr. Clinton, had in the opinion of Mr. Tompkins, rendered him *Hors du combat*. Him, therefore, he could no longer regard as a rival, but Gen. Armstrong, if the next president was to be taken from New-York, was a formidable one. The governor knew that the strength of Armstrong in this state depended greatly on the influence of Judge Spencer, with the republican party here. It was then obviously the interest of Gov. Tompkins to weaken as far as he could the influence of Spencer. It

is, therefore, highly probable that he viewed the increase of personal unkind feeling towards Judge Spencer with more complacence than regret.

Not many days ago, in a conversation with an old and experienced politician, an exceedingly judicious man and one who has looked profoundly into the human heart, who for more than twenty years was a member of the United States house of representatives, and was repeatedly elected speaker of that body, (John W. Taylor,) in relation to Gov. Tompkins, he remarked that he never knew a man who had fixed his hopes upon the presidency who would not sacrifice all personal considerations, and all pre-existing friendships to attain his object.

Another cause of the popularity of Gov. Tompkins was, that there was no circumstance which could be brought to the view of the people by which their jealousy of him could be excited. He was not a rich man, nor had he any powerful connexions. He was the son of a practical farmer of Westchester county, and his favorite title with the people was the "FARMER'S BOY." To other advantages he added a most fascinating address. Professor Renwick, in his life of Clinton, (page 66,) says;—"Tompkins with no remarkable native powers of mind, and but little acquirement even as a lawyer, possessed in a most eminent degree, the art of ingratiating himself with the people. He had the faculty, which is invaluable to him who seeks for popular honors, of never forgetting the name or face of any person with whom he once conversed; of becoming acquainted and appearing to take interest in the concerns of their families; and of securing, by his affability and amiable address, the good opinion of the female sex, who, although possessed of no vote, often exercise a powerful indirect influence."

I may be allowed to say, although I had little personal acquaintance with Gov. Tompkins, that in my judgment,

the professor underrates his talents. I think, the skill and tact with which he moulded the minds of men to his own purposes, and the prudence with which he for a long time conducted himself at the head of a state containing such strange political materials as did the state of New-York, during that period, are of themselves, evidence of much more than ordinary mental powers; and although he was taken from the bar and the bench when he was too young to have become a profound and learned lawyer, yet I have never heard that the opinions which he delivered while he was a judge of the supreme court were considered unworthy of the reputation for learning and talents which a judge of that high tribunal ought to possess. Of the evidence of talent which his communications to the legislature afford, while he was governor, I have heretofore spoken. What Mr. Renwick says of him in respect to his peculiar faculty of never forgetting the name or face of a person with whom he had ever conversed, is literally true; and I could relate several instances within my own knowledge, some of which are almost unaccountable in confirmation of its verity. This faculty, although rare, is of great use to the man who holds an eminent station in a popular government. It is said that Scylla, the Dictator, personally knew every citizen of Rome, and that he could call them all by name. This extraordinary quality of mind may have been of as much use to him in contested elections as was the splendor of his military achievements in Asia.

The extraordinary and almost miraculous success of Gov. Tompkins at the election of 1813, after the strong demonstrations of a federal majority in the congressional elections in December preceding, and in the face of the opposition of Mr. Clinton and some of his most powerful friends, while it afforded evidence of his popularity added to it. In war success is said to sanctify crimes, in politics it converts errors into catholic doctrines.

There was another circumstance which added greatly to the popularity and standing of Tompkins. The whole five New-England states had become federal, and New-Jersey, if not already, seemed hastening to become so. The federalism of the eastern states was of the most ultra kind. It was apprehended that they were determined either to change the administration, or to secede from the union, and form a separate peace with Great Britain. This, however, they would hardly have the temerity to do, if New-York continued to support the national administration. But if New-York joined them, or even became opposed to the further prosecution of the war, the financial affairs of the nation would become so straightened and embarrassed, as would have compelled either a change of the administration, or the submission of the United States to a disgraceful peace; and, in the event last referred to, the administration would, of course, be prostrated. No wonder then, that the eyes of republicans throughout the nation should have been fixed with deep and painful anxiety on the election of governor in New-York. The success of the democratic party was hailed by the democrats abroad, and especially by Mr. Madison and his cabinet, with unspeakable joy and exultation. That success was imputed, and perhaps justly imputed, to the personal popularity of Tompkins, and his universal popularity abroad increased his popular standing at home.'

The legislature convened on the 25th January. James Emott, a respectable lawyer from Dutchess county, was the federal candidate for speaker, and William Ross was the candidate of the republican party. Mr. Emott received fifty-eight votes, and Mr. Ross forty-eight, shewing a federal majority of ten in the assembly.

The governor's speech was chiefly confined to a detail of the events of the war. In the course of his speech, he alluded to the law of congress laying a direct tax, the

portion of which to be raised in the state of New-York, was four hundred and thirty thousand one hundred and forty-one dollars and sixty-two cents. This act provided, that if any state preferred a voluntary assumption and payment of its portion, and paid the same into the national treasury by the 20th of February, a deduction of fifteen per cent should be made, and if thus assumed and paid by the 1st of May then a deduction of ten per cent should be made. The Bank of America, and some other banks, were pledged to loan the state, when called on for that purpose, moneys to a much larger amount than the quota of the state of the direct tax; and the governor recommended that the state should assume the payment of its portion of the tax, and pay the same by a loan from those banks, to be re-imbursed by a tax, to be levied and collected in the ordinary way, by the state. The speech was referred to Messrs. D. B. Ogden, Bleecker and Ross.

Late in the preceding autumn the British had made an incursion on the Niagara frontier, and had burnt a considerable part of the village of Buffalo. On the first day of the session, and as soon as the house was organized, on the motion of Mr. Jacob R. Van Rensselaer, a federal member, the assembly passed a resolution, purporting to be joint, for loaning to the sufferers, in consequence of this attack, fifty thousand dollars. Mr. Ross made an ineffectual effort to postpone the consideration of the resolution. The motion for a postponement was negatived by a party vote. As the federalists were constantly being charged with opposition to the war, &c., their unusual early movement in this matter must have been with a view of affording evidence to the inhabitants of the frontier, of their sympathy for those who were suffering in consequence of the depredations of the enemy, and with the further intent of being before hand with the senate in support of a measure which, it was presumed, would be

popular, especially in the western district. In the resolution, the commissioners for distributing the money were named. They, of course, were federalists. When the proposition was acted on in the senate, it was amended by striking out the names of the federal commissioners, and inserting, in their place, the names of republicans. With this amendment the assembly non-concurred. A collision in this way occurred between the two houses, and for some time it seemed doubtful whether the sufferers would not be deprived of the bounty of the state, merely because the two parties could not agree on the appointment of agents to distribute it. Such a contest was discreditable to both parties.

The assembly also, on the first day of their meeting, elected a council of appointment. Unfortunately for the federalists there were no federalists in the senate from both the middle and western districts, the term of service of Messrs. Platt, Hall and Phelps, having expired; and the federalists finally selected Mr. Henry A. Townsend, of Steuben county, as their councillor.

Mr. Townsend was elected, in 1810, as a republican, and it does not appear that he had, at any time, professed a change of principles; but he was a friend of Mr. Clinton, and his support of that gentleman, together with his vote for incorporating the Bank of America, had brought him in collision with Judge Spencer and other zealous politicians. These were, probably, the circumstances which led to his selection.

The result of the vote, for members of the council, was as follows:—Elbert H. Jones, fifty-six; Morgan Lewis, fifty-six; Samuel Stewart, fifty-six; Henry A. Townsend, fifty-seven; Nathan Sanford, forty-nine; Lucas Elmendorff, forty-eight; Henry Yates, jun., forty-eight; and Farrand Stranahan, forty-eight.

Before the expiration of the term of service of the

council chosen in 1813, the office of chancellor became vacant, by Mr. Lansing's being ineligible in consequence of his age. Chief Justice Kent was therefore appointed chancellor, and Smith Thompson succeeded him as chief justice.

On the 3d February, Elisha Jenkins was removed from the office of secretary of state, and Jacob Rutsen Van Rensselaer, the late speaker, appointed in his place. What produced this long delay in displacing Mr. Jenkins I cannot state, unless it was that the office was intended for Mr. Van Rensselaer, and that the discharge of its duties was deemed incompatible with a satisfactory performance of the labors which are necessarily cast upon the speaker.

The only question of importance, which the council of 1814 were called on to decide, was that of the appointment of a judge of the supreme court, which was rendered necessary to supply the vacancy produced by the elevation of Chief Justice Kent to the office of chancellor, the greater part of the offices in the state being held by persons who belonged to the party which held the majority in the assembly.

Gen. Platt was the candidate most favored by a large majority of the federalists. The object of Mr. Lewis, who now claimed to be most purely and exclusively a republican, seems to have been to prevent Mr. Platt's appointment. Mr. Townsend was considered, and perhaps correctly so, as the representative of Mr. Clinton, and as speaking his wishes in the council. At any rate, the public held Mr. Clinton responsible for every act done by Mr. Townsend. Gov. Tompkins acted in concert and harmony with Mr. Lewis: a singular alteration since 1807, when Gen. Platt was supporting Mr. Lewis against Mr. Tompkins. Mr. Clinton was accused of bargaining with the federalists to procure Gen. Platt to be appointed a

judge of the supreme court; *in consideration* of which, it was said, the federalists had stipulated that Mr. Clinton should be continued in the mayoralty of New-York. With a view to strengthen this suspicion, and with the further view to detach from Mr. Clinton the greatest possible number of his supporters, and possibly with some hope that the appointment of Mr. Platt might be prevented, Mr. Lewis nominated Richard Riker, of New-York, for a judge of the supreme court. To show the embarrassment this nomination must have occasioned to Mr. Townsend, as the friend of Mr. Clinton, it is only necessary to recollect that Mr. Riker was the second of Mr. Clinton in the Swartwout duel; that he had ever since continued to be his personal and political friend, in all the wars with the Burrites, Lewisites and Tammany men that subsequently occurred in the city of New-York; and that, as we have seen, he was at the head of the committee to promote the election of Mr. Clinton to the presidency. But, if it would seem inconsistent for Mr. Townsend, as the friend of Mr. Clinton, to vote against the appointment of Riker, it was equally inconsistent and unnatural for Mr. Lewis to nominate him; for Riker had been steadily and violently opposed to Lewis, and Lewis to him, from the year 1805, to the year 1814; and yet Lewis did nominate Riker, and Townsend did vote against that nomination. Misery, it is said, makes a man acquainted with strange bed fellows, and so does party politics. As respects the fitness of Riker for the office of judge, when compared to Platt, I imagine all will agree that Platt was the most suitable and fit man. Mr. Platt was appointed, and Mr. Riker, ever after, ceased to be a friend to Mr. Clinton.

Party heat never was higher, in the legislature, than during this session. The strong republican majority in the senate, and the zeal of that majority to aid in the vigo-



rous prosecution of the war, induced that body to propose a variety of measures, in accordance with their views, which, when presented to the assembly, were generally resisted, and by the majority rejected. The republican party in the assembly, though still in the minority, had received a great accession of moral power by the last election. John Savage, late chief justice, from Washington county, Samuel Young, the late canal commissioner, from Saratoga county, Aaron Hackley from Herkimer county, and William C. Bouck, late a canal commissioner, from Schoharie county, together with several others, were all new members, all young men of great promise, and all possessed of talents of a high order.

The federalists, as a party, from the time of John Adams, had always professed themselves the friends of a navy, and they complained of Mr. Jefferson for his neglect in not encouraging, supporting and adding to that arm of the national defence. Hence, when a naval victory was achieved over the British, or a naval defeat on our side occurred, they, in one case, were most forward to express their exultation, and, in the other, their regret, while they manifested very little sensibility at any disaster to the American forces engaged in the land service.

As a specimen of the party action of that day, I think proper to state the proceedings which took place in the assembly, in relation to several naval actions which had then lately taken place.

A federal member from the city of New-York, Mr. Charles King, on the 28th of January, offered the following resolutions:—

“*Resolved*, That although we cannot approve of the disastrous and destructive war in which we are engaged, the house of assembly of the people of the state of New-York feel great satisfaction in expressing their admiration of the conduct of Com. Perry, and his gallant associates,

in their action with the British squadron upon Lake Erie, on the 11th Sept. last, and the high sense they entertain of the gallantry of Lieut. Burroughs, of the United States brig Enterprize, who died after conquering a vessel of equal force belonging to the enemy.

“That they deeply lament the fall of captains Lawrence and Allen, by which their country is deprived of the service of two officers who had already so highly entitled themselves to its admiration and gratitude—

“That, in the opinion of this house, the conduct of our naval commanders and seamen during this ruinous war, ought to satisfy every reflecting mind that our commercial rights are to be defended and maintained by a navy, and not by embargoes and commercial restrictions.”

Mr. Savage, with a view of rendering the resolutions acceptable to the whole house, offered a substitute for the first resolution, in which the words “*although we cannot approve of the disastrous and destructive war in which we are engaged,*” were omitted; but the substitute was rejected by a party vote. The second resolution was passed by an unanimous vote. When the third resolution was under consideration, Mr. Young moved to strike out the word “ruinous,” and that part of it which condemned the embargo and restrictive measures. This amendment was also rejected by the same vote, and the resolutions, as offered by Mr. King, were adopted.

The answer of the senate to the governor’s speech was drawn by Mr. Van Buren, and is an admirable production. The senators assured the governor of their readiness to co-operate with him in all proper measures to defend the country, and to preserve its honor and independence. They conclude their address with the expression of the following just and patriotic sentiment:—

“That on questions of general policy, or the fitness of individuals for particular stations, we shall ever be ex-

empted from differences of opinion, is not to be expected. Divisions like those are inseparable from the blessings of our free constitution; and although sometimes carried to an excess which all good men must deplore, they are, notwithstanding, generally productive of much national good. But to suppose that a people jealous of their rights, and proud of their national character, would, on a question of resisting the aggressions of an open enemy—aggressions which have polluted our soil, and which threaten the subversion of those inestimable political institutions which have been consecrated to freedom by the blood and sufferings of their fathers—that on a question of such vital interest, so well calculated to excite all the patriotism, to arouse all the spirit, and to call into action all the energies of the nation, they would waste their strength in useless collisions with each other, would be a reflection upon their discernment and their character which they can never merit.”

The answer of the assembly was indecorously severe and bitter against the governor, and against the war. It, nevertheless, passed in that body by a vote of fifty-five to forty-one.

The senate passed a bill, in pursuance of the recommendation of the governor, for the assumption by the state of its quota of the direct tax; but the bill was, on motion of Mr. Hyde, rejected in the assembly, fifty-five members voting in the affirmative on that motion. The bill, when it was received from the senate, was referred to a select committee, who in their report, stated sundry objections to its passage, and concluded by saying, “Judging of the future by the past, your committee beg leave to express their firm conviction, that instead of wasting the resources of the state by granting them to the general government, it is the solemn and imperious duty of the legislature, to

seek the reimbursement of the expenses already incurred by this state on account of the war."

On the 31st January, Mr. Van Buren brought into the senate a bill for the repeal of the restraining law, and, on the same day, Mr. John B. Coles, a federal member, brought a like bill into the assembly, showing on this, as on all other occasions, that the questions relating to banks and banking privileges, were not of a political nature, except when artificially made so by those interested in banks; and that they are merely questions between the holders of exclusive franchises, and the community. The bill failed of becoming a law.

It will readily be imagined that, during this session, frequent collisions occurred between the two houses. The views of the federalists and republicans, on all questions of legislation which related to the prosecution of the war, (and there were several such,) were so adverse, that hardly any measures were proposed by the one which were not resisted, or attempted to be modified, by the other. This led to frequent conferences. In these conferences the views of the assembly were generally sustained by the splendid talents of David B. Ogden, Samuel Jones, Jun., Charles King, and Jacob Rutsen Van Rensselaer, while the management of conferences, on the part of the senate, was commonly entrusted to Martin Van Buren, Erastus Root and Nathan Sanford. Mr. Sanford seldom took much part in the discussion; the battle, on the part of the senate, was commonly fought by Gen. Root and Mr. Van Buren.

The former had been long trained in the business of legislation. Though a little uncouth in his manner, and rough, and, I fear, sometimes rude in his expressions, his wit was keen, and his sarcasms severe and biting. He seized with great force and effect upon the prominent points, and especially those points most likely to make an

impression on the popular ear, and pressed them with a power almost irresistible. His illustrations were exceedingly clear and well chosen, and his attacks upon his opponents were severe almost to ferocity. From the year 1798, down to that period, he had been almost continually a member either of the state or national legislature; and possessing, as he did, a most retentive memory, he was perfectly at home on all matters relating to the history of the action of both governments, and the operations of both the great political parties. He had much parliamentary tact, and although, as I have remarked, he was harsh in his manner, and reckless in his expressions, he was a man of correct literary taste, and, though severe to his opponents of highly cultivated intellect. "He was a scholar, and a good and ripe one." Mr. Van Buren, on the other hand, was clear and logical in his reasoning, though sometimes sophistical, and his manner and matter was decorous towards his opponents. No man knew better than he, how to avail himself most effectually of any defect in the arguments of his opponents. His biographer, Mr. Holland, (*Van Buren's Life*. p. 103,) when speaking of the part which Mr. Van Buren took in these discussions, says, "In these conferences the measures in dispute were publicly discussed, and the discussion embraced the general policy of the administration and the expediency of the war. The exciting nature of the questions thus debated, the solemnity of the occasion, the discussions being conducted in the presence of the two houses, and the brilliant talents of the parties to the controversy, drew vast audiences, and presented a field for the display of eloquence, unsurpassed, in dignity and interest, by the assemblies of ancient Greece. Mr. Van Buren was always the leading speaker on the part of the senate; and by the vigor of his logic, his acuteness and dexterity in debate, and the patriotic spirit of his sentiments, commanded great applause."

Although this biography was written, it is presumed, with a view to produce effect at a presidential election, when Mr. Van Buren was a candidate, I consider the author's statement, in the above extract, as literally correct; and, therefore, I do not hesitate to copy it into a work, which, whatever may be its other defects, I hope, will not smack of political or personal partiality.

During this session a law was passed granting to Union College the very liberal sum of two hundred thousand dollars, in addition to former grants. This sum was to be raised by lotteries. It was urged that this mode of raising money was immoral, but probably those whose consciences were the most tender on that subject would have voted against a grant, or at any rate, so large a grant of money to Union College, if the money had been raised by any other means. At that time, lotteries were tolerated, and would have been granted, if not for that, for some other purposes. The same bill also provided for small donations to Columbia College, to Hamilton College, to an African Church, to the Historical Society, to the College of Physicians and Surgeons of the western district, and to the Medical College of New-York. The donations to so many institutions, in various parts of the state, probably was the means of forming an interest which secured the passage of the bill. The Rev. Dr. Nott, the president of Union College, was, I have no doubt, the individual who devised this grand scheme for the liberal and permanent endowment of the institution over which he presided. Certainly it is owing to his indefatigable exertions, and matchless skill and address, that a majority in favor of the bill was obtained in both houses. His ingenuity in explaining away and warding off objections; his skill in combining different and apparently conflicting interests; and, above all, his profound knowledge of the human heart, and that discernment which enabled him, as it were,

intuitively to discover the peculiar propensity and character of the mind of each individual whom he addressed, together with his tact in adopting that mode of address best suited to each, rendered him almost irresistible, and, I believe, ultimately secured the success of the great measure which he advocated.

The law for the better establishment of common schools, was re-modelled and improved by a new bill drawn by Mr. Hawley, which passed both houses on the 15th April. By this law, most of the provisions contained in the statute of 1812 were re-enacted; but they were arranged in better order, and some new regulations were introduced, the most important of which, was, that the trustees of a school district, by consent of a majority of the legal voters in such district, might exonerate all such poor persons from paying for the tuition of their children, as they should deem proper, and collect the sum, so remitted, from those inhabitants whom they adjudged able to pay school taxes.

It is gratifying to perceive that the members of this legislature, although so nearly equally divided into two parties, and so highly excited on political questions, cordially united to advance the cause of science and popular education.

There were, during this session, applications by sixteen associations, for bank charters. The times afforded a fine harvest for bankers. They could issue their own notes as money, without being compelled to pay them. Such was the peculiar attitude of the national administration, in relation to the New-England states, and such was the financial condition of the country, that the suspension of specie payments by the bankers was considered an evidence of patriotism. What banker would not be a patriot, if he could lend his notes as cash, and, by a refusal to pay them, acquire the character of one? Some of

these applications were successful in the assembly, but all failed in the senate. At the very time when so great a rage for bank charters prevailed, and found so much favor in the assembly, Mr. Cole's bill, authorizing any association to bank under certain restrictions, was rejected, in that house, by the strong vote of sixty-six to twenty-four. Another proof that the real question to be decided, on an application for the incorporation of a bank, is between the monopolizers and those who desire to become such.

On the 5th of February a meeting of a few citizens, claiming to be Clintonians, but really the personal friends of Solomon Southwick, was held in Albany, of which Sebastian Visscher was chairman, and Samuel A. Foote was secretary; at which Mr. Southwick was nominated a candidate for the senate from the eastern district.

Mr. Southwick, notwithstanding his immense receipts as state printer, and what he was supposed to have received for acting as agent for the Bank of America,\* was now pretty well known to be greatly insolvent. As a politician, he was also bankrupt. A few only of old electioneering hacks, broken down men in fame and fortune, of the democratic party, adhered to him. Mr. Foote was, it is true, a promising young man; but he was, at that time, scarcely twenty-one years old. He had had no political experience, nor did he then know the estimation in which Mr. Southwick was generally held, otherwise, it is presumed, he would not have appeared as an officer of that meeting. The federalists held a majority, as they believed, in the eastern district, and they, of course, did not wish to be troubled with Mr. Southwick.

To guard against the consequence, and make up for the loss of the few republicans who might vote for Southwick,

\* About this, there is much doubt. Mr. S. alleged, that instead of receiving money from that institution, he had lost by it, because he had paid from his own pocket large sums in procuring the charter, which the bank had refused to reimburse



the republican party, in the district, nominated Guert Van Schoonhoven, a gentleman who had always belonged to the federal party, but who gave some indications of a disposition to support the war.

In the sequel, it appeared that Mr. Van Schoonhoven received more federal than Mr. Southwick did republican votes; for, of the two senators then to be elected from the eastern district, Mr. Geo. Tibbits, one of the regular federal candidates, was elected, while Mr. Southwick was beaten by Mr. Van Schoonhoven.

The election in April terminated almost universally, in this state, in favor of the republican party. The city of New-York elected republican members of the assembly, and several other counties changed from federal to democratic, so that there was a considerable democratic majority in that branch of the legislature. The change in the election of members of congress was equally great, twenty of the members elect being republican.

The senators chosen at this election, were Darius Crosby from the southern district, Moses I. Cantine and William Ross from the middle, George Tibbits and Guert Van Schoonhoven from the eastern, and Philetus Swift, Chauncey Loomis, Bennet Bicknell and John I. Pendergast from the western; all of them republicans, except Mr. Tibbits.

## CHAPTER XX.

FROM MAY 1, 1814, TO MAY 1, 1814.

IN the month of August, a small squadron of British vessels of war, containing some land forces, sailed up the Chesapeake and effected a landing of their troops, who marched into the interior with a view of capturing the city of Washington. Some slight resistance was made at Bladensburgh, within about five miles of the capitol, but the attack was not anticipated, no regular troops were in the neighborhood, and a few regiments of raw militia, suddenly collected from the District of Columbia and its vicinity, constituted mainly the American force, which was soon put to flight. The British troops after this skirmish, marched into the city of Washington, destroyed some of the public stores at the navy yard, set fire to the president's house, and blew up the capitol. The next morning, however, they retreated, and with all convenient dispatch the troops were re-embarked. This outrage produced considerable feeling even in the minds of the federalists. Meetings of all parties were held in New-York, and in several other places in the state, at which resolutions were adopted to support the government in repelling invasion, and indicating that there ought to be a suspension of all mere party controversies until the foreign enemy should be driven from our borders.

The citizens of the city of New-York, greatly alarmed for the safety of that city, organized themselves into military corps and volunteered to attend at regular hours for the purpose of drilling.

Mr. Clinton as mayor, by his public addresses and by his influence with the city corporation, did much to keep alive

a spirit of patriotism, and to aid the national government with funds to sustain its sinking credit.

Money was required. The banks would not loan their bills without better security than the stock or treasury notes of the United States. It was, however, understood that if treasury notes were deposited, endorsed by Gov. Tompkins, they would advance some four or five hundred thousand dollars to be expended in erecting fortifications for the defence of the port of New-York. Mr. Rufus King, on being informed of this, called upon the governor and stated to him that the time had arrived when it was the duty of every man to put his all at the requisition of the government and that he himself was ready to do this. Mr. Tompkins replied, he should be obliged to act on his own responsibility and should be ruined. "Then," said Mr. King, "ruin yourself if it becomes necessary to save the country, and I pledge you my honor that I will support you in whatever you do." These sentiments are the more honorable to Mr. King, when we consider that he was then the prominent leader of the opponents of Mr. Madison.

Gov. Tompkins endorsed the notes and the money was advanced by the banks.\*

Upon the capture of Washington, Gen. Armstrong resigned his office as secretary of war.

The citizens of the district of Columbia were clamorous against Gen. Armstrong, and charged the disgrace and injury they had received from the invasion of the British, to his mismanagement and neglect. I am utterly incompetent to criticise the conduct of military men, and if this were not so, it does not come within the scope of these sketches, to attempt such criticism. I will merely state that Gen. Armstrong and the few friends who adhered to him, took quite a different view of his conduct. I re-

\* See correspondence between Tompkins and McIntyre.

mark further, that Mr. Monroe was then secretary of state, and a rival candidate with Armstrong for the presidency; that as I have before observed, Gov. Tompkins was also a candidate for the same station, and that it was most clearly the interest, first of Mr. Madison, to fix on some scape goat, on whose shoulders to saddle this disgrace; secondly, of Mr. Monroe to cast from the cabinet a man whose pretensions were directly at war with his own, and thirdly, of Gov. Tompkins to get rid of a formidable rival from his own state. What effect the combined action of these men might have upon their own political friends, (for Gen. Armstrong, before this disaster happened, was sufficiently odious to the federalists,) may readily be imagined. Gen. Armstrong did not make the least effort to avert the fate that seemed to await him. He retired in sullen silence from the administration to his residence at Red Hook, and has never since intermeddled with state or national politics, except by occasional confidential communications to his old and constant friend Judge Spencer, and one or two others.

It is rumored that he has employed himself in writing the history of the late war. If that rumor is true, and should his work be published, it will be read with great avidity. That his means of accurately knowing what actually took place during the war, are equal if not superior to any other person; that he possesses a mighty intellect, all will admit; and if his history shall not be too much tinged with a gloomy, jealous and vindictive spirit, it will beyond question be invaluable.\*

In consequence of the exposed condition of the country, and the danger of invasion at several points by the enemy, the governor, by proclamation, convened an extra session of the legislature. They met on the 26th September, and Samuel Young, of whom I shall have often occa-

\* I have since learned this work had been published when the above was written

sion hereafter to speak, was chosen speaker of the assembly, and Aaron Clark, clerk.

The speech of the governor related almost exclusively to the war and the suggestion of measures for its vigorous prosecution. The speech was cordially approved by both branches of the legislature.

The republican majority in the two houses did not remain idle a single moment. They did not content themselves with words, but had recourse to the most vigorous action to put the state in an attitude of defence against the enemy, and to aid the war measures of the general government.

They first passed an act to raise the pay of the militia, while in the service of the United States, over the compensation allowed by the general government, so that a subaltern should receive fifteen dollars per month, a musician or corporal fourteen dollars, and a private thirteen dollars per month. This provision extended as well to those who had served since March 13, 1814, as those who should be called into service. The payment was to be made from the state treasury.

They next passed an act to encourage privateering, by authorising associations for that purpose. The passage of this act was resisted by the federalists in the legislature, and by the federal members of the council of revision.

Chancellor Kent interposed a series of objections in the form of a protest evincing great learning and ability, against the act, as inconsistent with the genius of our constitution, and at war with the principles of civilization and the spirit of the age. But a majority of the council approved and passed the bill. The publication of this protest called out Col. Young, the speaker of the assembly, who in several numbers, published in the *Albany Argus*, under the signature of *Juris Consultus*, defended with great talent and ingenuity, the proceedings of the legislature. The ability displayed in these essays, first made Mr. Young

known to the state as a man of distinguished talents. They were answered by the chancellor, and the controversy was afterwards pursued by Mr. Van Buren, who wrote under the signature of *Amicus Juris Consultus*. The dissertations elicited by this controversy, both from Chancellor Kent Col. Young, and Mr. Van Buren, are well worthy of preservation, as splendid displays of learning and talent, and as elegant specimens of correct logical reasoning.

The same legislature, within a few days after the passage of the last mentioned law, passed a bill to authorise the raising of troops for the defence of the state, commonly called the classification law. By this act twelve thousand men were to be enlisted by the authority of the state, for the term of two years. For the purpose of ensuring the raising of that number of men, the militia were to be classed, and each class was to furnish its man. If a volunteer from the class could not be obtained, then an assessment was to be made upon the members of the class in proportion to the property held by each. This bill became a law on the 24th October.

On the same day a law was passed for raising a corps of sea fencibles for three years, consisting of twenty companies for the defence of the port of New-York. This corps were to be ready at a moment's warning to be called into actual service, in lieu of the militia. A law, also was passed for raising two regiments of colored men for three years, among whom slaves might be enlisted by consent of their masters, who were to be manumitted on being honorably discharged. Thus it seems that that unfortunate class of men were not deemed unworthy of shedding their blood in defence of a country and a people which had degraded and oppressed them. Could it have been anticipated that Col. Young, who ably and zealously advocated this bill, would have been found in the conven-

tion of 1821, supporting, and probably by his influence, procuring to be inserted in the amended constitution, a clause which was intended forever further to degrade this down trodden race of men, to whose aid he now, in this time of imminent peril, resorted ?\*

Other laws were passed during this short session for reimbursing Gov. Tompkins for expenditures which he had incurred, not at the time authorised by existing laws, and for indemnifying him for the responsibilities he had assumed, for appropriating fifty thousand dollars for the completion of the fortifications on Staten Island, to amend and render less easy of evasion, the act organizing the militia, also to prevent the arrest on civil process of militia men while in the public service, and to prevent all improper traffic or intercourse with the enemy.

These laws were most of them opposed by the federal members of the legislature, because in some respects they were alleged to infringe too much on the private rights of the citizen, and because it was the duty of the national government and the main object of its organization, to provide for the defence of the country, and every part of it against a foreign enemy. But the truth was, the general government, by means of its financial embarrassments, and other causes, had become, in a great measure, powerless, and if the country was to be defended from the common enemy, it was apparent that defence must be made principally by the states as such.

The national government by means of its patronage is strong, perhaps too strong in time of peace; in war, if the states choose to claim their reserved power, as the eastern states then did, it is weak and inefficient.

The prompt adoption of these war measures by the legislature, I thought then and I still think, was honorable to the majority in the two houses. Among the most efficient supporters of the measures in the senate, were Van

\* See Note A. vol. 2, p. 540.

Buren and Root; and in the assembly, the talents, zeal and imperturbable firmness of Mr. Speaker Young, were powerful means of procuring their adoption in that body.

The legislature, before their adjournment, which took place about the 25th October, passed a law removing Solomon Southwick from the office of state printer, and appointing Jesse Buel in his place.

A convention chosen by the legislature of some of the eastern states, known as the famous Hartford Convention, was about this time projected. In this measure the state of Massachusetts took the lead. The legislature of that state was in session during the autumn of this year, and Gov. Strong had, in his message, delivered a violent philippic against the war and the management of it. This message was referred in the senate to a committee, of which Harrison Gray Otis was chairman. He made a long report, in which he animadverted with great severity on the measures pursued by the general government, and concluded as follows :—

“ It is therefore, with great concern, that your committee are obliged to declare their conviction, that the constitution of the United States under the administration of the persons in power, has failed to secure to this commonwealth, and as they believe, to the eastern section of the Union, those equal rights and benefits, which were the objects of its formation, and which they cannot relinquish without ruin to themselves and posterity. These grievances justify and require vigorous, persevering and peaceable exertions, to unite those who realize the sufferings and foresee the dangers of the country, in some system of measures to obtain relief, for which the ordinary mode of procuring amendments to the constitution affords no reasonable expectation, in season to prevent the completion of its ruin. The people, however, possess the means of certain redress; and when their safety which is the



supreme law, is in question, these means should be promptly applied. The framers of the constitution made provisions to amend defects which were known to be incident to every human institution; and the provision itself was not less liable to be found defective upon experiment, than other parts of the instrument. When this deficiency becomes apparent, no reason can preclude the right of the whole people, who were parties to it, to adopt another; and it is not a presumptuous expectation, that a spirit of equity and justice enlightened by experience, would enable them to reconcile conflicting interests, and obviate the principal causes of those dissensions, which unfit government for a state of peace and war, and so amend the constitution, as to give vigor and duration to the union of the states. But as a proposition for such a convention from a single state, would probably be unsuccessful, and our danger admits not of delay, it is recommended by the committee, that in the first instance, a conference should be invited between those states, the affinity of whose interests is closest, and whose habits of intercourse, from their local situation and other causes, are most frequent; to the end that by a comparison of their sentiments and views, some mode of defence, suited to the circumstances and exigencies of those states, and measures for accelerating the return of public prosperity, may be devised; and also to enable the delegates from those states, should they deem it expedient, to lay the foundation for a radical reform in the national compact, by inviting to a future convention, a deputation from all the states in the union. They, therefore, report the following resolves—which are submitted.

H. G. OTIS, per order.

*Resolved*, That the calamities of war being now brought home to this territory of the commonwealth; a portion of it being in the occupation of the enemy, our sea coast and rivers being invaded in several places, and in all exposed

to immediate danger; the people of Massachusetts are impelled by the duty of self-defence, and by all the feelings and attachments which bind good citizens to their country, to unite in the most vigorous measures for defending the state and expelling the invader, and no party feelings or political dissensions can ever interfere with the discharge of this exalted duty.

*Resolved*, That provision be made by law for raising, by voluntary enlistment, for twelve months, or during the war, a number of troops not exceeding ten thousand, to be organized and officered by the governor, for the defence of the state.

*Resolved*, That the governor be authorized to accept the services of any volunteers, and to organize them as part of the aforesaid troops, who shall hold themselves in readiness to march at a moment's warning, to any part of the commonwealth, who shall be entitled to full pay and rations, when in actual service, and to a just compensation short of full pay, to be provided by law, during the entire term of their enlistment.

*Resolved*, That the governor be authorised to borrow, from time to time, a sum not exceeding one million of dollars, at an interest not exceeding six per cent; and that the faith of this government be pledged to provide funds at the next session of this legislature at furthest, for the payment of the interest on the sums borrowed.

*Resolved*, That persons be appointed as delegates from the legislature, to meet and confer with delegates from the states of New-England or any of them, upon the subjects of their public grievances and concerns, and upon the best means of preserving our resources, and of defence against the enemy, and to devise and suggest for adoption by those respective states, such measures as they may deem expedient: and also to take measures, if they shall think proper, for procuring a convention of all the United

States, in order to revise the constitution thereof, and more effectually to secure the support and attachment of all the people, by placing all upon the basis of fair representation.

*Resolved*, That a circular letter from this legislature, signed by the president of the senate, and the speaker of the house of representatives, be addressed to the executive government of each of said states, to be communicated to their legislatures, explaining the objects of the proposed conference, inviting them to concur in sending delegates thereto.

This report was adopted on the 12th October, as appears by the following extract from the minutes kept by the senate of Massachusetts:—

“IN SENATE—Oct. 12, 1814.”

“*Important Report*.—The report of the joint committee on the public defence, was again debated; and was advocated by the Hon. Messrs. Otis, Quincy, Blake, White, and others; and opposed by the Hon. Messrs. Holmes, Moody, Fuller, Kilham, and others—when it was accepted, twenty-two to twelve. The blanks being filled up, the number of delegates from this state is to be twelve, and the convention is to meet in Hartford, the 15th December ensuing.”

These proceedings, on their face, were of a character highly alarming. The state of Massachusetts had, before this time, refused to put their militia, who, according to a law of congress, were called into the service of the United States, under the command, or in any respect under the control, of officers appointed by the national government.

With this avowed determination, the state, it will be perceived by the above resolutions, determine to raise an army of twelve thousand men. They next resolve to raise by loan, in addition to the ordinary revenue, a million of dollars, which, of course, was to be expended un-

der the direction of the state authorities; and they proceed further, to legalize, so far as the state could legalize, a meeting of men unknown to either the state or national constitutions, and to clothe them with political power. They invite and earnestly urge the other disaffected states to join them in this proposed congress. It is impossible to view the project in any other light than as revolutionary in its character. Two or three of the other New-England states became parties to this plan of a convention, and sent deputies to it. What the real object of this movement was, yet remains in doubt. The peace, which was so soon after the meeting of the convention announced, disconcerted and defeated the objects of the projectors, whatever those objects were. On the one hand, it was contended, that the promoters of this convention had nothing more in view, in any event, than to effect, if possible, a reform in the administration of the government, and to extort from the administration a modicum of its patronage; while, on the other, it has been affirmed that the original intention was treasonable; that the New-England states meant to secede from the union; negotiate a separate peace with Great Britain; and form an independent government, perhaps, in alliance with the British. Might I be permitted to offer a conjecture, I should say, that, to me, it is very probable that Massachusetts, and the other New-England states, assumed this menacing attitude in the expectation of coercing the general administration to concede to them a portion, if not the whole, of the national patronage; but with a determination, in case this hope should prove ill founded, that they would secede from the union, "peaceably, if they could, forcibly, if they must."

How far the federalists of the state of New-York approved these violent proceedings at the east, is not dis-

tinctly known. I myself, know, and could name, some very distinguished federal politicians of this state, who were decided in their opinions against the Hartford convention\* while there is reason to believe, that many others, either secretly or openly, encouraged their eastern friends. I observe, at that time, an article in the Albany Register, condemning the measure; to which, an anonymous writer in the Albany Gazette replied, justifying it. One thing is very evident, that the federalists of New-York, as a party, never sanctioned the Hartford Convention.

One movement of the federal members of the legislature, during the short extra session, deserves attention, because it took place about the time, or rather a few days before, the scheme of the Hartford Convention was developed by Mr. Otis, in the Massachusetts legislature. On the 27th day of September a committee of the federal members of the legislature issued the following circular, which I have copied from Mr. William Colman's New-York Evening Post, a leading federal paper, so much so, that Mr. Colman was called Field Marshal Colman:—

“ALBANY, September 27, 1814.

“SIR—The legislature convened at this place yesterday, and commenced their proceedings in the true jacobinic spirit of proscription. It is therefore evident, that conciliation is out of the question with our political opponents. We understand that the majority in the two houses have several violent and extensive projects in contemplation. Hence, it is desirable, that the federalists, throughout the state, should have a perfect understanding about the course which the party are to pursue. To effect this, it is proposed to have a *meeting of delegates* from different counties, in this city, on the fifth day of October next, to consult and decide on that subject.

\* ABRAHAM VAN VENTEN and DANIEL CADY.

"Permit us to request you to confer with our friends in your county, and to make arrangements to send a delegation to the proposed meeting.

We are, with great respect,

Your obedient servants,

James Emott,	Henry Livingston,
Abr. Van Vechten,	Theodore Sill,
Saml. M. Lockwood,	J. R. Van Rensselaer,
Daniel Hale,	William A. Duer,
George Tibbits,	Samuel Stewart,
Peter Jay Munro,	Gerrit Wendell,

*Committee."*

Why this state convention? No governor was to be chosen for the space of nearly two years, and no election, of any kind, was to be held for more than six months thereafter. It is difficult to account for this call, without supposing that one object of a state convention was, to take into consideration the conduct of the eastern federalists. I am not, however, aware that a convention was held, in pursuance of the request of the legislative committee; at any rate, I am quite confident no such convention was publicly held. If I am correct in this, the fair inference is, that the project of the Hartford Convention was not generally favorably received by the federalists of New-York. [*Note C.*]

The intelligence of the laws passed by the New-York legislature, in aid of the war and of the general government, at the session in September and October, was received at Washington, by Mr. Madison and his cabinet, with great joy, and the most intense gratification.

The extremely depressed condition of the national treasury, had rendered the United States unable to recruit their armies, which were daily diminishing by the expiration of the terms of enlistment, deaths, and desertions.

The British government, now relieved from all its European enemies, would exert its whole tremendous power against America single handed, and the determined and powerful opposition of the eastern states to the government, unquestionably added to the alarm of the administration. New-York held a most important position. Had she ~~have~~ joined her moral and political influence with New-England, it does seem to me, the national government must have come to a stand, and that this must have been seen and felt by the cool and calculating Mr. Madison. Under these painful apprehensions, the news from New-York was particularly consoling and cheering. I was going to say, it fell upon the ear of the cabinet like a reprieve to a man condemned to die.

Gov. Tompkins was considered the individual, to whom, above all others, the administration was most deeply indebted. Mr. Monroe was now acting secretary of war, as well as secretary of state. Mr. Madison proposed to Gov. Tompkins that Monroe should vacate the office of secretary of state, and that he, (Mr. T.) should be placed at the head of that department. Ever since the alteration of the United States constitution, in the mode of choosing the president and vice-president, the secretary of state was considered heir apparent to the presidential chair, and, at any rate, was the known and admitted favorite of the president for the time being. This offer, then, Mr. Tompkins considered, and considering established usages, perhaps had a right to consider, as a commitment, on the part of the administration, to support him for the next president. Gov. Tompkins, however, declined accepting the office, alleging as a reason, that he could render more service to the nation as governor of New-York, than as secretary of state of the United States. The popularity and influence of Gov. Tompkins may be said now to have been at its zenith. In New-York he was all but idolized

by a formidable and well organized political party, who held strong majorities in both branches of the legislature; abroad he was esteemed and respected, and at Washington the national cabinet had virtually declared him their candidate for the next national executive vacancy. He was, in New-York, not only the dispenser of the state patronage, but, in the loose and irregular way of transacting business between the state and national governments which then prevailed, most of the treasury notes and other securities of the United States passed through the hands of the governor, and payments, on the part of the state and nation, were many times made through him, and occasionally by him; so that he was also the dispenser of pecuniary gratifications. He was auditor, receiver, and paymaster. All good things, politically speaking, seemed to come from the governor as their source.

Mr. Madison, in the latter part of this year, thought proper to remove Gideon Granger from the office of post-master general, and to supply his place by the appointment of R. J. Meigs, of Ohio. Mr. Granger had held the office for twelve years, and had done much towards improving and perfecting that important department; but report states that some personal differences existed between Mr. Madison and Mr. Granger, while the former was secretary of state, which were never forgotten by him, and that he expelled Mr. G. from the post-office ostensibly because he had been a Clintonian, but really on account of an old grudge. The immediate cause of the removal, was the appointment, by Granger, of Doct. Lieb post-master of Philadelphia.

The new post-master general, shortly after his appointment, removed George W. Mancius from the office of post-master at Albany, and appointed Peter P. Dox. Mr. Mancius was an old Albanian, beloved by all, notwithstanding he was nominally a federalist. His removal



produced a strong sensation unfavorable to the post-master general.

The legislature met on the 31st day of January, 1815, and on the next day chose a council of appointment, consisting of Jonathan Dayton from the southern, Lucas Elmendorff from the middle, Ruggles Hubbard from the eastern, and Farrand Stranahan from the western districts. This council very promptly proceeded to remove all, or nearly all, the federal incumbents from offices held subject to the pleasure of the council.

Mr. Van Vechten was, of course, removed from the office of attorney general, and Mr. Van Buren was appointed his successor. This appointment was made by the casting vote of the governor. Mr. Elmendorff and Mr. Dayton voted for Mr. Van Buren, and Messrs. Stranahan and Hubbard for Mr. John Woodworth. The circumstance is too trifling to deserve notice, except as an evidence of a jealous feeling which then began to exist between Judge Spencer and Mr. Van Buren. I do not impute the vote of Hubbard to the influence of Judge Spencer. Mr. H. was from Troy, and Judge Woodworth had many and powerful friends in that place, and in Mr. Hubbard's district. This accounts well enough for the vote of Mr. Hubbard. But Stranahan had no personal partialities nor any influential friends, in his district, in favor of Woodworth; on the contrary, they were for Van Buren. The truth is, Stranahan, at that period of his political life, was much, if not entirely, devoted to the views of Judge Spencer. I apprehend that Judge Spencer perceived that Mr. Van Buren was acquiring a greater influence in the state than the judge desired he should possess, and, therefore, persuaded Mr. Stranahan to endeavor to defeat his appointment. From this period, down to 1817, when Mr. Clinton was nominated for governor, Mr. Van Buren and Judge Spencer, though both of them acting with the

republican party, and in good faith too, were very much inclined to thwart the individual views of each other.

On some of the first days in February, Nathan Sanford was chosen senator of the United States, to fill the seat rendered vacant by the expiration of the term of service of Gen. German. The moment Gen. Armstrong resigned the war department it was given out, (and I believe the giving out came from Judge Spencer,) that the ex-secretary must be elected to the United States senate. Mr. Spencer was no doubt anxious for this result, but it was soon found the current in the legislature against Armstrong was quite too strong to be arrested. Gov. Tompkins, though extremely adroit in avoiding the taking any part openly in the controversies which occurred among his political friends, could not, on this occasion, remain idle. Beyond all question, both he and Van Buren, must have taken a very active part to put at rest, at all events, the claims of Gen. Armstrong.\*

On the 12th of February the news arrived in Albany that a treaty of peace between Great Britain and the United States, had been signed at Ghent, on the 24th day of December. It is unnecessary to say that the intelligence of

\* After it was found that Gen. Armstrong could not be elected, Judge Spencer himself was announced as a candidate; but the current in favor of Mr. Sanford, which had been produced by Gov. Tompkins and Mr. Van Buren, could not be resisted.

Previous to the assemblage of the caucus to nominate a senator, it was well ascertained that a majority were in favor of Sanford. When the caucus convened Mr. Van Buren stated that he did not believe Judge Spencer would consent to be a candidate. This statement was probably made with a view to induce the friends of the Judge to withdraw his name, Mr. V. B. believing that they must have known there was a majority against him.

The friends of the Judge, however, insisted that he would serve as a senator, if elected, and moved that a committee be appointed to call on him and request his response to the question, whether he was, or was not, a candidate. This motion, although opposed by Mr. Van Buren, was carried, and a committee raised accordingly, who reported that the Judge declined to be a candidate, "*because he would not put himself in competition with so young a man as Mr. Sanford.*"

It is not improbable that the committee advised Judge Spencer of what they believed would be the result of a contest between him and Sanford.

this event produced the most lively sensations of joy, among all classes in the community, excepting only those contractors and office holders who were making great gains by the war, and perhaps we ought to except, now and then, a cold, calculating, selfish politician of the federal stamp, whose party zeal absorbed his love of country, and who believed that the administration must have been broken down had the war continued, and who felt that the news of peace had destroyed all the prospects of the party with which he was associated. It is, however, undoubtedly true, that a large majority of both parties most sincerely rejoiced when the news of the great event arrived.

To add to the exultation and general joy, about this time information was received of the splendid victory of New-Orleans, obtained on the eighth of January, by the American troops under the command of Gen. Jackson.

For more than a quarter of a century past, our statesmen and orators have boasted of our success in the late war; and the heroism and bravery of our soldiers and seamen; the patriotism of our citizens; and the strength and energy of our government, as demonstrated by that war. The glory achieved by the nation, during this contest, has been extolled at the hustings, eulogised in the halls of legislation, and celebrated in song. This may be all right; it is, in fact, right; for, in truth, great fortitude and spirit was evinced, both by our seamen and soldiers, and very decisive evidence was furnished of the attachment of the great mass of the people to the government of their own choice, and of their determination to support and defend the liberty and independence of the nation. Still, the honest and candid historian, acting with good faith towards posterity, is bound to state, that at the time when peace was announced in this country, it was in a condition alarmingly perilous. The treasury was empty, and the credit of the national government was quite exhausted. I will

not say it could not command a dollar of real money, but I will say it could not, with all its means and its power, without the most ruinous sacrifice, get the control of a million, or even half a million, of the only money known to the constitution; which is gold and silver. The army of the United States, though liberally supplied with officers, had not, at that time, in its ranks more than eight thousand privates, enlisted for five years, or during the war, and the government possessed no means of recruiting its ranks; and, as I have said before, the whole naval and military power of Great Britain was ready to be put in requisition for the prostration of this country. To add to all these difficulties, the cloud which for two years had been gathering in the east, was now ready to burst. I will, nevertheless, add, that I have not a shadow of doubt that had the war continued, notwithstanding these difficulties and embarrassments, the whole country, and all parties in it, would have eventually roused and repelled the invader. But the news of peace came, and with it all danger vanished.

The 22nd of February, Washington's birth-day, was designated as a day for rejoicing and festivity. I was in Albany on that day and evening, and I could not but observe, that notwithstanding the prevalent hilarity, politicians were anxiously looking ahead for future advancement. Among the various pageantry exhibited, were several transparencies, with inscriptions suited to the occasion; but at the Eagle Tavern I noticed a splendid transparency exhibiting in large capitals the names of TOMPKINS and CRAWFORD. The indication intended was most obvious.

The war having thus happily terminated, the party in power felt more at liberty to distribute the patronage in such a way as to gratify their own individual views. Jacob Rutzen Van Rensselaer was removed from the office of

secretary of state, and Gen. Peter B. Porter was appointed in his place. Gen. Porter had honorably distinguished himself in the army on the Niagara frontier during the war, and was besides justly esteemed as a man of the first order of intellect. It does not appear that he solicited the appointment. Indeed his business required his personal attention at Black Rock, where he resided, and besides, he was in the spring of 1814, elected to congress. He was, I understand, proposed by Gov. Tompkins, and a majority of the council of appointment without difficulty consented to his appointment. As Tompkins was a candidate for the presidency, and knew that Gen. Porter would be an influential member of the next congress, he probably felt desirous to afford him this evidence of his courtesy. Col. Jenkins, the late secretary, who, it is presumed, was a candidate possessing what is called claims, was the devoted friend of Judge Spencer, who made no secret of his opposition to the governor's pretensions to the presidential office. By proposing so respectable a name as Gen. Porter's, Gov. Tompkins without an open controversy with Spencer or Jenkins disposed of the claims of the latter, who was fain to acquiesce in the miserable scheme to which Gov. Tompkins and the council consented, of removing the venerable Philip Van Rensselaer, brother of the Patroon, from the mayoralty of Albany, and of receiving the appointment in lieu of that of Secretary of State.

There was one question which somewhat embarrassed the council, and produced considerable public excitement; and this was the appointment of a mayor of New-York. De Witt Clinton was the incumbent. He had discharged the duties of the office ably and faithfully. Whether pestilence\* or war prevailed, he was constantly at his post. The Tammany party in New-York, which then really constituted the republican party of that city pressed his re-

\* The yellow fever prevailed twice in New-York, while Mr. Clinton was mayor.

moval. Judge Spencer was indefatigable in his exertions to effect the same object, and of course Mr. Stranahan was for it, and so was Mr. Dayton, who came from the hotbed of Martlingism. Mr. Hubbard was at the last presidential election a zealous Clintonian, and went on a mission to Vermont with a view to obtain the vote of that state for his favorite candidate. He was still friendly to Mr. Clinton, and desired his re-appointment. Mr. Elmendorff, if influenced by any individual, was probably more guided by Mr. Van Buren than any other. Van Buren did not desire to take an active part on either side of this question, and Mr. Elmendorff, for that or some other reason, for some time, hesitated about committing himself on the question.\* Tompkins dreaded giving the casting vote. He did not wish to offend the republican friends of Mr. Clinton, and he dared not encounter the resentment of the New-York Tammanies. For these reasons the appointment of mayor of New-York was for a considerable time delayed.

During the year 1814, a writer of considerable talents had appeared in a New-York paper, assuming the name of *Abimaleck Coody*, a mechanic of that place. The writer was a federalist, and addressed himself principally to the party to which he belonged. He endeavored to show the impropriety of opposing the war, and urged them to come forward manfully in defence of their country. He also, as I am told, for I have not for many years seen his numbers, attacked De Witt Clinton with great severity. This was a sure passport to the favors of St. Tammany. It was soon ascertained that this writer was Mr. Gulian C. Verplanck, a gentleman who has since distinguished himself for his talents and usefulness, both in the national and state legislature. He also holds a high rank as a man of respectable literary attainments. *Abimaleck Coody*

\* I state this from report. It may be incorrect.

was answered by a writer under the signature of "A Traveller," with great point and severity. This was said to be the production of Mr. Clinton. He charges Mr. Verplanck's hostility to Clinton, as having grown out of a charge given by Mr. C. while mayor of New-York, on an occasion when Verplanck was indicted for a riot in Columbia College, and the "Traveller's" main object seems to have been to ridicule Mr. Verplanck's claim to literary merit; but towards the conclusion, he says that, "He" (Coody, alias Verplanck,) "has become the head of a political sect called the COODIES, of hybrid nature, composed of the combined spawn of federalism and Jacobinism, and generated in the venomous passions of disappointment and revenge, without any definite character; neither fish nor flesh, nor bird nor beast, but a nondescript made up of

"All monstrous, all prodigious things."

Mr. Verplanck was joined by several others, few it is true, in number, but highly respectable for talents and standing, among whom were Judge Radcliff, who had been appointed mayor by the federalists in 1810; and Mr. Maxwell, since district attorney of New-York. This little party were taken into very close communion by Judge Spencer, and he was understood to be in favor of Judge Radcliff for mayor. It is not improbable that this good understanding commenced when Peter W. Radcliff was in the council of 1813. It really does seem that that little association was, in a great degree, governed by hostility to De Witt Clinton, for there were scarcely enough of them to occupy the places which would be rendered vacant by the expulsion of the Clintonian office holders in the city; and it does not appear that they ever acted with the republican party from that time to the present, except when it was necessary to do so in order personally to oppose De Witt Clinton. The result of the next election,

(April, 1815,) proved that they made no impression on the federal party in New-York, for from being democratic in 1814, the city changed to federalism in 1815. The Coodies, in common with all the other opponents of Mr. Clinton, pressed his removal, and they insisted on the appointment of Judge Radcliff. The Tammany society seemed to prefer the appointment of their Grand Sachem, Mr. John Ferguson. In the end, Mr. Elmendorff was induced to give up his scruples about removing Mr. Clinton; and an arrangement was made, by which Mr. Ferguson was appointed mayor, under an understanding that he was soon to be provided with an office by the general government, (surveyor of the port,) when Mr. Radcliff was to receive the office of mayor. Mr. Clinton was displaced, and the above arrangement was fully carried into effect.\*

The situation of Mr. Clinton was now deplorable, and his prospects were painfully gloomy. To all appearance his political expectations were entirely blasted. He was

\* I cannot conclude my remarks on this council without mentioning one of their acts which was peculiarly reprehensible. Mr. Ruggles Hubbard, who, it will be recollected, was a senator from the eastern district, was a lawyer residing in Rensselaer county. He was irregular in his habits, lax in his moral principles, and improvident in his expenditures. This man, in preference to many other worthy and respectable old citizens of New-York, was appointed sheriff of the city and county of New-York. An office worth ten thousand dollars a year, which eminently required a man intimately acquainted with the citizens and their circumstances, and one not only responsible in a pecuniary point of view, but of correct business habits, and punctilious in all his dealings, was given by the council to a member of their own body, of irregular habits, insolvent in his circumstances, and a stranger to the city. It was a mere exertion of arbitrary power, an insult and outrage on the city of New-York, which ought to have disgraced the most despotic tyrant in the eastern world. How the city of New-York could have been induced to submit peaceably to this most inexcusable act, is a miracle. That Mr. Hubbard was wholly unworthy of this office, even had he been a citizen of New-York, appears from the ridiculous attempt, subsequently made by him to get possession of Amelia Island, and his miserable death there.

It is due to Ruggles Hubbard to say, that although he was lax in his moral principles and reckless in his habits, he was an exceedingly pleasant companionable man, good natured and kind in his disposition, and humane and generous to a fault. He left many worthy and respectable connexions in the part of the state where he resided. His fellow members of the council deserve, I was going to say, more of the maledictions of the public than ought to be bestowed upon him.



no longer in fellowship with the republican party. There was no reasonable ground to believe that the federalists would regain an ascendancy either in the state or nation, and if they should, there was little probability that they would bestow on him any marks of distinction or favor. From youth up he had devoted himself to politics, and had never followed any business or profession. He had a large family dependent on him for education and support, and although he was neither a speculator nor profuse in his expenses, by reason of responsibilities he had improvidently assumed for others, and a want of system in his domestic economy, he was insolvent for many thousands of dollars. But he was a man of great firmness and moral courage. He did not abandon himself to despondency, nor did he yield to childish resentment. He continued his social intercourse, and maintained his dignity of deportment. He betook himself to literary pursuits, and soon distinguished himself by his dissertations and addresses, as a man of science and considerable literary attainments; and he pursued with ardor his scheme of inducing the state to open a communication by a canal between the great lakes and the tide waters of the Hudson.

Mr. Clinton was descended from the Irish. From that and other circumstances, he was during his whole life, the favorite of the great mass of Irish adopted citizens. After his removal from the mayoralty, he was addressed by Thomas Addis Emmett and Doct. McNivin, in behalf of the Irish citizens in a manner creditable to them, and honorable to him. "We prefer," say they, "the moment of your retreat from office, for the expression of our deep sense of your manifold and important services to the public."

Mr. Clinton's reply gives stronger evidence of intense feelings than any of his productions.

Little business of interest was transacted in the legislature during the remaining part of this session.

Gerrit L. Dox was chosen treasurer in lieu of Mr. Platt.

The result of the election in April was somewhat different from that which was expected probably by either party. The city of New-York elected federal members to the assembly. Of the one hundred and twenty-six which composed that house, according to the certificate of the returning officers, sixty-three were federalists and sixty-three republicans.

In the senate, Jacob Barker was elected from the southern district; Peter R. Livingston and Isaac Ogden from the middle, Abraham Van Vechten, David Allen, Henry I. Frey and Ralph Hascal from the eastern; and Henry Seymour and Stephen Bates from the western district. All the districts were democratic except the eastern.

## CHAPTER XXI.

FROM MAY 1, 1812, TO MAY 1, 1814.

THE peace, as I have before in substance stated, entirely prostrated the hopes of the federalists, as a party; and I am not aware that, either in this or any other state in the union, saving a feeble effort made in the spring of 1816, in New-York, to elect Mr. King for governor, they have made any serious effort, under the name of federalists, since the termination of the war.

The issue which was made between the republican and federal parties, on the war question, was unfortunate, and, on the part of the federalists, ill judged and impolitic. I say ill judged and impolitic, because, I trust, all candid, fair minded republicans will admit that the great mass of the federalists were sincerely attached to the civil institutions and independence of the country; that they honestly believed the war was unadvisedly declared and badly conducted; and that the administration of Mr. Madison was weak and inefficient, and tended to produce, and was producing, serious injuries to the nation. It seems to me then, that after the constitutional authorities of the country had declared war, although the federalists may have supposed that war to have been injudiciously and prematurely declared, and even although they might have believed that by a proper course of negotiation, on the part of the American government, it might have been avoided, yet, inasmuch as a state of war with a powerful nation actually existed, they ought by their influence, in and out of the legislative halls, to have exerted themselves in favor of the vigorous prosecution of the war, and they should have manifested their wish that the government

might be furnished with the necessary means of men and of money, to bring that war to a termination upon principles advantageous and honorable to the nation.

The conduct of the federalists was, in many respects, the reverse of this. From the question, whether the war was well or ill conducted by the government, or whether it was prematurely declared, they allowed themselves to be drawn into a controversy respecting the *cause* of the war, and whether the American government were not equally culpable with the British. In their zeal to condemn our own administration, they were led, first to apologize for, and finally to justify, the conduct of the common enemy. As the federalists affirmed that the war was prematurely declared, and that the administration was incompetent to conduct it, any ill success in prosecuting it they seemed to suppose, would be proof of the truth of their allegations. Hence, sometimes the federal press exulted, or rather manifested symptoms of gratification at the news of a defeat of the American troops. At the public meetings of the federalists, and indeed in their social intercourse, on like occasions, they gave similar indications. The true cause of such exultation and joy was, not that the British arms were successful, but that the administration, by means of the disaster, was disgraced. But the opponents of the federalists were able to produce an impression among the people that it was not the hostility of the federalists to the administration, but their partiality to a foreign government, which induced them to apologize for, and sometimes justify, the British. The conduct of over zealous federalists tended to give color and sustain the allegations of their opponents.

It has always seemed to me, that if the federalists had, in good faith, supported war measures, and confined their opposition to the reckless expenditure of the public money, and the manner in which the war was conducted,

they would have carried the hearts of a majority of the American people with them, and broken down the administration.

It cannot fail to be unfortunate for parties, in a republic, to be founded on a difference of opinion as regards the merits or demerits of a foreign power; and the fate of the federalists, as a party, which seems to have been induced by appearing to take the side of a foreign government, will, in that respect, it is hoped, have a salutary effect on all parties hereafter. And it is worthy of remark, that although, since the peace with England, our government has had serious difficulties with other nations, and we have constantly had highly excited parties in our midst, no party has taken the side of any of the foreign governments with whom we have differed. Indeed, I have sometimes apprehended, that our party leaders are too much afraid of the charge of foreign influence or foreign partialities.

The American government *may* err in its treatment of another government, and when you become sensible that it does so it is your right as a freeman, and you are bound as an honest man, to condemn the course pursued by your own government; not with a view to aid a foreign power, but for the purpose of reforming your own government.

The federalists being in this hopeless condition, as a party, felt very indifferent about the presidential candidates. It is, however, natural to suppose, that they hoped the republican party would divide on that question. The president had then been taken from the state of Virginia for twenty-four out of the twenty-eight years during which the United States government had existed. This apparent partiality for the citizens of that state, had been long severely denounced by the federalists of the northern and middle states, and it had recently been harped upon by the papers, claiming to be republican, which supported

**Mr. Clinton.** It was now the interest of Gov. Tompkins, and other competitors with Mr. Monroe for the presidency, to countenance and give effect, among the republicans, to the prejudices which had been excited against what was called the Virginia dynasty. Judge Spencer and Gen. Armstrong were in favor of Mr. Crawford, but the great mass of the republican party in the state were for Gov. Tompkins.

Immediately after the peace was concluded, Mr. Madison began to give tokens that Mr. Monroe was to be the executive candidate. Whether an understanding existed at the time of the election of Mr. Madison, that Mr. Monroe, who at first exhibited some symptoms of oppugnation, should be his successor, or whether he was operated upon by the pressure of his Virginia friends; or from personal friendship, and from an opinion that Mr. Monroe was really the fittest and most suitable man, or, whatever the cause may have been, it is certain that when danger from a foreign enemy and domestic disturbance disappeared, Mr. Madison, contrary to his intentions when he tendered to Mr. Tompkins the office of secretary of state, did abandon his claims, and sustain those of Mr. Monroe.

As soon as it was known in New-York that Mr. Monroe was the executive candidate for the succession, a small party was got up who favored his pretensions, and among them were men who had been the confidential friends of Gov. Tompkins, and had participated largely in the bounties he had distributed.

There are good reasons to believe that the national administration, under the control of the Virginia dynasty, had, for a long time, entertained some jealousy of the leading and most influential republicans in the state of New-York. The great and rapidly increasing numerical weight of this state might have increased that jealousy. Hence, the policy at Washington was to prevent any one

man from getting, or rather from retaining, an ascendancy with the republican party in the state. Hence, we find that the minor section of that party were always the special favorites of the administration, from the time of the existence of the Burr faction down to the period of which I am writing. Accordingly, William P. Van Ness, the second of Burr in the duel with Hamilton, the avowed author of *Aristides*, and the uncompromising enemy of De Witt Clinton, was made a judge of the United States court. Hence, also, the early attacks upon that gentleman, in the *Richmond Enquirer*, and, in 1808, when Mr. Clinton was supporting the embargo and other measures of the general government, in the senate of New-York, the attacks upon him by the *Washington Monitor*, a paper edited by Mr. Colvin, a clerk in the office of Mr. Madison, and other republican papers directly under his control; and hence, the Martling men and Lewisites in New-York, after they denounced Mr. Clinton, and while they were, as respected the great republican party in the state, literally a faction, were the peculiar favorites of the administration, and the special objects of its bounty. This policy of the general government had been sanctioned and secretly encouraged by governor Tompkins, but it was now his turn to encounter the same policy exerted towards himself.

In illustration of this remark it is my duty to state, that Solomon Southwick, who had for years abused the national administration and the Virginia dynasty; who had boisterously opposed, in 1812, the election of Mr. Madison; and who had most bitterly attacked Gov. Tompkins, Judge Spencer, and other distinguished republicans of New-York, was now a successful applicant for an appointment by the general government.

It is true, that after the news of peace, in the winter of 1815, he came out, in the *Albany Register*, in favor of the

republican party, and of the conduct of Mr. Tompkins, as governor; but those who recollected his severe and continued animadversions in that paper, for three years preceding, found it extremely difficult to accord implicit credit to his sincerity.

The office of post-master, at Albany, had become vacant by the death of Peter P. Dox, in the fall of 1815, and Mr. Southwick was an applicant for that appointment. It is true he was recommended by a respectable meeting, principally of republicans, in Albany, at which George Merchant was chairman, and Charles E. Dudley secretary; but it was well understood that the meeting was got up principally through the influence of the creditors of Mr. Southwick, in the hope, if he should be appointed to a lucrative office, that peradventure they might realize a portion, or the whole, of the debts he owed them.

Mr. Southwick was in favor of Mr. Monroe for president, and he was eventually appointed post-master at Albany.

At this time the selection of the presidential candidate was made by a caucus of republican members of congress. This was then the common law of the democratic party. The fourteenth congress convened on the first Monday in December. As I happened to be a member of that congress I can speak with some confidence in relation to the manœuvrings which occurred, prior to the congressional caucus. When the members from this state arrived in Washington, it was found that nearly, if not quite, all the republicans, (and they were the only persons who claimed the right to interfere in the selection of a presidential candidate,) were for Gov. Tompkins, if it should be found that there was a reasonable prospect of procuring his nomination; but it was soon ascertained that it could not be effected. The New-England states were all represented by federalists, with the exception of three republican



members from that part of Massachusetts which now constitutes the state of Maine. The majority of the republican members were from the south, and these were all opposed to the nomination of Tompkins. Their ostensible objection was, that he had never been in the service of the nation, and therefore, their constituents knew little or nothing of him. It was in vain that we urged his merits as governor of New-York, during the late war.\* "I have no doubt," said a member from North Carolina to me, "that Mr. Tompkins is a good governor. We, also, have a good governor in North Carolina, but we do not, on that account, expect you to support him for the office of president." It was difficult to answer this objection, although the only reason why Gov. Tompkins had not been in the service of the nation, was his refusal to accept the office of secretary of state, solely for the reason that he could render more service to the nation as governor than he could as secretary of state.

I regret to say, that those who manifested an inclination to support, in caucus, Gov. Tompkins, may be designated by geographical lines. His friends were to be found in New-York, New-Jersey, some in Pennsylvania, some in Kentucky, some in Ohio, and some in Maryland; but not a single supporter of Tompkins could be found south of the Potomac. What was, what is, notwithstanding what has lately taken place, the inference to be drawn, by the northern aspirants to the national executive chair, from this fact? Of those republican members from Massachusetts, two were for Mr. Monroe, and one, (Col. Conner, a talented and enterprising man, who, although elected from Maine, was an actual resident of Albany, he having married the daughter of Isaac Denniston, Esq.,) was for Tompkins. It soon became evident that Tompkins could not be nominated; but, before this was ascertained, at any rate by those of us who were strangers, a meeting was held

\* Mr. Lewis Williams.

by the New-York delegation, to ascertain each others' views and to endeavor to agree on ulterior measures.

My object, and, I believe, the object of a majority of the delegates, was, in case we should become satisfied that the project of nominating Gov. Tompkins was hopeless, then to endeavor to procure as nearly an united vote of the state as possible, for William H. Crawford, at that time secretary of war.

The old members, as for instance, Gen. Porter, John W. Taylor, and Mr. Irving of New-York, were extremely wary and cautious. It was soon ascertained that few of us had hopes of succeeding with Tompkins, and Gen. Porter made some suggestions respecting the chance of success by holding him up as a candidate in opposition to the caucus nomination; and, although neither he nor any one else entertained any serious view of taking such a course, he appeared desirous to direct the attention of the delegates from the true question, which was, in case Tompkins was given up, between Crawford and Monroe. Some one finally observed, that the latter was the important, and in reality, the only question to be decided. The meeting was, notwithstanding, as appeared to me, much by means of the influence of Gen. Porter, John W. Taylor and Enos T. Throop, broken up without any expression of opinion as between Monroe and Crawford. I knew, and those gentlemen at the time knew, that more than four to one of the delegates were for Crawford. Mr. Porter, although the fact was not then generally known, was in favor of Monroe, and he was unwilling it should be at that juncture publicly known how large a majority of the New-York delegation was for Crawford, being apprehensive of its effects on the members of congress from other states. Gen. Porter was, not long after, appointed commissioner, under the British treaty, to run the bound-

dary line between the United States and the province of Canada.

William H. Crawford was a self-made man. He was a native of Virginia, and, by his parentage, belonged rather to a plebian than an aristocratic stock. In early life he emigrated to Georgia, where he soon distinguished himself in the practice of his profession, which was that of the law. He rose rapidly in the estimation of the citizens of his adopted state, and very soon was elected one of the representatives of that state, in the senate of the United States. He was chosen as a supporter of the national administration, but, during the years 1811, and part of 1812, he became dissatisfied with what he deemed the indecisive course of Mr. Madison, with respect to the difficulties between this country and Great Britain. It has been said, and probably with truth, that Mr. Madison was at all times averse to a war with the British, and that he was ultimately forced, by the importunity of his friends and the almost unanimous expression of the opinion of his party, to recommend a declaration of war. But, be that as it may, his messages were certainly of an equivocal character, and so drawn as to bear different constructions. Mr. Crawford, in a speech in the senate, complained of this. He said, "The messages are like the responses of the Delphic oracle," (I quote from memory,) "if you are for war the messages are for war, if you are for peace they are peace messages." Mr. Crawford, however, was soon after removed from the senate, by an appointment as American minister at Paris. It was said that one reason why Mr. Madison selected Mr. Crawford, was, that he apprehended opposition from him, and he was very desirous, at that crisis, to prevent any division among his southern democratic friends. Mr. Crawford acquitted himself creditably at the court of France, and, in 1815, was recalled to preside over the war department.

He was possessed of a vigorous intellect, strictly honest and honorable in his political conduct, sternly independent, and of great decision of character. On the other hand, Mr. Monroe, though he had been long in public life, a considerable part of which consisted in the execution of diplomatic agencies, was, speaking of him as a candidate for the presidency, not distinguished for vigor of intellect, or for decision of character, independence of action, or indeed, for any extraordinary public services. He made no pretensions to distinction as a writer, or eloquence as a public speaker. He seems to have owed his success in life to great caution, prudence, and deliberation in every thing which he said or did.

With these views of the merits of Mr. Monroe and Mr. Crawford, in connection with the fact that the chief magistracy of the nation had been so long held by citizens of Virginia, and considering Gov. Tompkins out of the question, a large majority of the New-York delegation was rather ardent in support of Mr. Crawford. Gov. Tompkins thought unkindly of their course. He thought they had too readily consented to give him up, although it was well known that Judge Spencer, whose opinion at that time had great influence with the members, decidedly preferred Crawford to Tompkins; yet, had there been the least prospect of his nomination, I have no doubt they would, in good faith, have supported him to the last. Mr. Clinton was for Mr. Monroe. *This fact I know* :— Mr. Van Buren took no decided part in the matter.\* In

\* Mr. Van Buren was at Washington in the early part of the session of congress. I asked him whom we ought to support for president? He replied, with apparent indifference, "We say Tompkins, *of course*," and then turned the conversation to some other subject. This conversation took place in presence of James Birdsal, a member from Chenango county, who, after Mr. V. B. withdrew, remarked upon his coldness of manner.

After the New-York legislature had been for some time in session, in the winter of 1816, (February 14,) a legislative caucus was held, at which it was resolved, that the democratic members of congress from the state of New-York be instructed

connection with the New-York delegation, the members from New-Jersey, part of the Pennsylvania delegation, Col. Conner from Massachusetts, part of the members from Ohio, Kentucky, Tennessee and North Carolina, and the whole of the Georgia delegation, were for Mr. Crawford. When congress first assembled, as between Crawford and Monroe, I have not a particle of doubt, that a majority of the republican members were for the former. But the caucus was put off from time to time, until the session was considerably advanced, and such was the influence of the administration on its own friends, or from other causes unknown to me, when the grand caucus was held, Mr. Crawford received fifty-four votes, and Mr. Monroe sixty-five, who was therefore nominated for president. Gov. Tompkins was nominated for vice-president. Of the members from New-York, I believe, that Messrs. Irving, Throop and Birdseye, were the only ones who voted for Monroe. Mr. Taylor was believed to have voted for him, but he has since told me he did not. Gen. Porter had resigned his seat, having received the appointment I have mentioned. Mr. Clay was for Mr. Monroe. [*Note E.*]

The day appointed by law for the meeting of the New-York legislature, was Tuesday the 30th of January. On that day quite a sufficient number of the members elect were in Albany, but as several of them did not arrive that day, and as there were more federalists than republicans absent, the former did not attend the first day, and there being no quorum, the republican members who were in attendance, adjourned until the day following. On Wednesday, one

to support Gov. Tompkins for president. This resolution could hardly have been passed, considering the known zeal of Judge Spencer for Mr. Crawford, had not Mr. Van Buren earnestly supported it. But, at that late day, so sagacious a politician as Mr. Van Buren must have perceived that if the New-York delegation, instead of supporting Crawford, should support Tompkins, the nomination of Monroe would be rendered certain, and, of course, both Crawford and Tompkins would be defeated. If, at Albany, Mr. Van Buren was ardent in the support of Tompkins, at Washington, to say the least, he was philosophically calm and cool

hundred and twenty members appeared, when Daniel Cruger of Steuben county was chosen speaker, against J. R. Van Rensselaer, by a majority of one vote, and Aaron Clark was elected clerk by a vote of sixty-two to fifty-nine. There was one blank vote cast. Showing that there was then in attendance one hundred and twenty-three members, for as there was no tie the speaker did not vote. The seats of the remaining three members were vacant by reason of sickness or death.

Mr. William A. Duer, a federal member from Dutchess, immediately on the election of Speaker, presented the petition of Henry Fellows of Ontario county, claiming a right to a seat in the house as a member elected from Ontario county, in the place of Peter Allen, to whom the petitioner alleged a certificate had been improperly granted by the clerk of that county.

The case contained in the document presented by Mr. Duer was, as afterwards by the unanimous report of the committee on elections, in substance as follows:—

Henry Fellows was one of the federal candidates for a member of the assembly from the county of Ontario, at the last annual election, and Peter Allen was the candidate of the republican party, at the same election, and received a greater number of votes than any of the republican candidates. Among the votes given to Mr. Fellows were forty-nine votes from the town of Pennington, which votes were printed ballots, with the name of *Henry Fellows* thereon. These votes, when added to the residue of the votes given him in the county, amounted to three thousand seven hundred and twenty-five. Mr. Allen received three thousand six hundred and ninety-five votes only, which would have given Fellows a majority of thirty. The inspectors of election for the town of Pennington filed a copy of their certificate of the canvass, with the town clerk, and in that certificate the name of *Henry Fel-*

lows was written at full length, but in the duplicate sent by the inspectors to the county clerk, Mr. F.'s name was written "*Hen. Fellows.*" The county clerk rejected these forty-nine votes which gave Allen nineteen majority, and therefore he certified that Allen was duly elected. It was by virtue of a certificate given under these circumstances, that Mr. Allen claimed his seat.

It will be perceived, that as there actually were but one hundred and twenty-three members, while Allen retained his seat the republicans had sixty-two members and the federalists sixty-one, the moment Fellows should obtain the seat of Allen, then the federalists would have sixty-two members, and the republicans including the speaker, would have but sixty-one. The great struggle on the part of the federalists, was to have this question decided before the council of appointment was chosen, while the republicans were anxious to put it off until they could secure this spoil distributing machine; both parties knowing that eventually the seat must be given to Mr. Fellows.

It is a curious fact, and strongly illustrative of the important duty which devolves on every elector at the polls, that this state of things was produced by ONE VOTE in the the ballot-box, given in the county of Otsego. There were two classes of candidates voted for in that county at the preceding election; and out of five members to be chosen only one federalist was elected, and that one was Doct. William Campbell, the late surveyor general. Upon canvassing the votes, it was found that Doct. Campbell, being a popular as well as a very worthy man, ran higher than any of the other federal candidates, and received one vote more than the lowest republican candidate. Thus if the inspectors of Pennington, and clerk of Ontario county had done their duty, one vote in the ballot box would have controlled the whole patronage of the great state of

New-York for the ensuing year. Are the important consequences which *may* result from one vote duly considered at our popular elections?—I fear not.

Upon the presentation of this petition, Mr. John H. Beech of Cayuga, a republican member, moved that the reading of the petition and documents be postponed until to-morrow. Mr. Duer objected that the motion was not in order. The speaker decided that the motion *was* in order. Mr. Thomas J. Oakley, another member from Dutchess, appealed from the decision of the speaker. On the decision of this question, the ayes and noes were called for, and the clerk was proceeding to call the names of the members, when Mr. Duer made a motion that the name of Peter Allen be omitted in calling the roll, on the ground that he was collaterally interested in the question. The speaker decided that this last motion of Mr. Duer was not in order, from which decision an appeal was taken. The ayes and noes were called on this new question of order and it was objected that Peter Allen had not a right to vote on this question of order, the speaker decided he had such right; from which last decision there was an appeal. The house then adjourned.

It is easy to perceive, that in this way there could be no end to the contest, for every time a new question arose, an appeal from the decision of the speaker was taken, as to the right of Peter Allen to vote, and a new question was presented as to his right to vote upon the question, which a moment before was itself the new question.

On Thursday morning both parties seemed inclined to a truce, or rather a suspension of hostilities long enough for time to breathe a little. They therefore proceeded to organize the house by the appointment of a doorkeeper, sergeant-at-arms, &c. and they sent messages to the governor and senate, informing them that the house was organized. The governor returned for answer, that he would



meet the two houses at the assembly chamber on the next day, and then the house adjourned.

On Friday, the 2nd of February, the governor delivered his speech, after which the house adjourned until Saturday morning.

On that morning the contest was again renewed.

Col. Leavenworth, from Delaware county, a gentleman who distinguished himself as an officer in the late war, offered a resolution, that the "house will immediately proceed to nominate and appoint a council of appointment."

When this resolution was offered, Mr. Lynch offered a resolution that the resolution to choose a council of appointment be postponed until after a decision of the right of Peter Allen to a seat in the house. The speaker decided that Mr. Lynch's motion was not in order, and his decision was confirmed by the house.

Mr. Oakley then moved to amend the resolution offered by Col. Leavenworth, by striking out the word "immediately" and inserting "on Wednesday next, and that in the mean time the house would consider the right of Peter Allen to his seat." On this question the ayes and noes were ordered; and thereupon Mr. Jay made a motion that Peter Allen be excluded from voting on the amendment offered by Mr. Oakley. The speaker decided that Mr. Jay's motion was not in order, and Mr. Jay appealed. Before deciding the question on this appeal, the house adjourned till Monday.

On Monday, which was the sixth day of the session, the house met, and forthwith the contest was renewed. Mr. Duer moved that Peter Allen should not be allowed to vote on the appeal of Mr. Oakley. The speaker decided that Mr. D.'s motion was not in order, and from that decision he appealed. The ayes and noes being taken, the result was sixty-one votes against the decision of the speak-

er, and sixty-one votes including the vote of Mr. Allen, for sustaining it. The speaker of course voted in favor of his own decision, and declared the appeal to be lost.

The question in various forms was presented of the right of Peter Allen to vote on a question affecting his right to a seat, and on his right to vote on questions affecting his right to vote on those questions, and always ended with the same results. Peter Allen did vote, and by such vote the house was equally divided, in all which cases the decision of the question was of course made by the casting vote of the speaker.

Eventually the resolution of Col. Leavenworth, to proceed *immediately* to the choice of a council of appointment, was adopted by the casting vote of the speaker. The house then, before any adjournment, proceeded to elect a council of appointment. The result was as follows:—Darius Crosby, sixty-three; William Ross, sixty-one; Parley Keyes, sixty-one; Arohibald S. Clark, sixty-two; Samuel Verbryck, forty-seven; Abraham Van Vechten, sixty-one; Gerrit Wendell, sixty-one; Henry Seymour, sixty-one.

Two of the four first mentioned gentlemen were elected (Mr. Ross and Mr. Keyes,) by the casting vote of the speaker, and the vote of Peter Allen.

On the next day after the council of appointment was chosen, the committee of elections reported, on the petition of Mr. Fellows, the facts I have stated, and unanimously recommended the adoption of a resolution that Peter Allen was not entitled to a seat in that house, and that such seat of right belonged to Henry Fellows.

On the question of agreeing to the report, the ayes and noes were called, and one hundred and fifteen members voted in the affirmative, and one only, (Mr. Ganson of Genesee) in the negative.

Since all interest in these proceedings have subsided, I trust very few men can be found who will justify the proceedings of the republican part of this house of assembly.

As to the right of Mr. Allen to a seat there could not be two opinions. It was a palpable case of error in the returning officer. The Clerk of Ontario county must have been stupid, to a degree approaching to idiocy, or he must have acted corruptly and fraudulently; and this view of his conduct must have been taken by every man of common sense in the assembly.

Again, Allen had a direct interest in retaining a seat in the house, and no member can vote on a question in which he is interested, and yet Peter Allen was allowed to vote on questions distinctly affecting his continuance in that house as a member.

The result is that the council of appointment, chosen by the vote of Peter Allen, had no moral right to exercise the functions of their office, procured by a species of legislative pettifogging and barefaced trickery.

The council of appointment which had been created after this severe contest, had very little to do. Few offices were or became vacant, and the incumbents were all, or nearly all, the political friends of the council. Gen. Porter resigned the office of secretary of state, and Robert Tillotson, a very worthy and accomplished man, the son of the late secretary Doct. Tillotson, was appointed in his place.

Some gentlemen of the republican party, then in Albany, gave Allen a dinner, which I believe was all he ever received for the shameful prostitution of himself for party purposes.

The governor's speech was principally occupied in remarks relating to the war. He did not submit any special recommendations on any subject of importance. In

relation to the contemplated Erie canal, which now began to excite universal attention, he merely said,

“It will rest with the legislature, whether the prospect of connecting the waters of the Hudson with those of the Western Lakes and of Champlain, is not sufficiently important to demand the appropriation of some part of the revenues of the state to its accomplishment, without imposing too great a burthen upon our constituents. The first route being an object common with the states of the west, we may rely on their zealous co-operation in any judicious plan that can perfect the water communication in that direction. As it relates to the connecting the waters of the Hudson with those of Lake Champlain, we may with equal confidence, count on the same spirited exertions of the patriotic and enterprising state of Vermont.”

From the above extract, it will be perceived that he was far from being willing to commit himself in favor of the measure. His words are measured with great care. Indeed, his allusion to the “imposing too great a burden on our (their) constituents,” seems to me evidently thrown in for the purpose of creating alarm.

After the controversy in relation to Allen, no serious collisions took place between the federal and republican parties, during the remainder of the session, but the foundation for very fierce and lasting animosities between different sections of the democratic party was shortly afterwards laid, or rather a foundation for such collisions having previously been laid, the consequences of such collisions began now to be exhibited.

We have seen Judge Spencer, whose towering influence in the democratic party had long been felt throughout the state, and especially in the legislature,—an influence, which in public estimation, received an immense increase by the prostration of De Witt Clinton,—recently, and no doubt unexpectedly to him, as well as most of the lookers

on, defeated, in his favorite views in relation to an United States senator, and perhaps we may add in relation to the appointment of an attorney general. The deceased Mr. Hildreth, who, while the democratic party had the power of controlling that appointment, held that office until his death, considered, and perhaps truly, that he received the appointment through the influence of his friend, the judge; and it could not have been a very pleasing reflection to Mr. Spencer, that the office, was now possessed by a man who obtained it not only without his aid, but against his wishes. The incumbent of that office in connexion with Gov. Tompkins, had had the address to thwart his most cherished hopes of placing a man, in whom, above all others, he confided, in the senate of the United States; and what, perhaps, was still more painful, the contest in relation to the matter had afforded a demonstration that he *could be* beaten.

So great is the change in the working of our system of government, since the abolition of the council of appointment, and the election by the people of most of those officers who were created by that branch of the executive government, that if it be not now, it will hereafter be almost unaccountable how an individual, not officially connected with either the legislative or executive department of government, could have acquired, and for so long a time, held so much influence as Judge Spencer did in the state. I will endeavor to explain it.

My readers will bear in mind, that all officers, including sheriffs, clerks of counties and justices of the peace, were appointed by the council at Albany. The appointment of justices conferred a more effectual means on the central power, of influencing the mass of community, than all the other patronage within the gift of the government. The control over these officers carried the influence of the central power into every town and even the most obscure

neighborhood in the state. A judge of the supreme court takes up his residence in Albany; under the old circuit system his official duties, in the course of three or four years, carried him into every county in the state, and presented him in an attitude most favorable to the people of the respective counties. Four times a year many of the lawyers, from various parts of the state, were required to attend the supreme court at bar. Would it be difficult for a judge to form an intimate and friendly acquaintance with some citizen of each county, perhaps a lawyer, with whom he could communicate, especially when such lawyer ascertained that by this intercourse he could, through the influence of the judge, procure appointments for his friends, and in that way increase his influence and importance at home. The people, say for instance, of Orange county, find that the recommendations to office, if given by Mr. B., are sure to be successful. If two men, (C. and D.,) of the town of Warwick are candidates for the office of justice of the peace, and Mr. B. writes to the judge in behalf of C, and he is appointed in preference to D., Mr B., by such operations in several other towns in the county, will soon be found to be an influential man in the county of Orange; and when members of assembly or a member of congress are to be nominated, by a county caucus, whose advice is so likely to be followed as Mr. B.'s? On the other hand, B. knows that his power depends upon sustaining the influence and power of his patron at the seat of government. Hence, he will endeavor that the assemblymen and senators, when they arrive at Albany, shall listen to, and follow the advice of the man through whom he derives a considerable portion of his consequence. It cannot fail of being perceived that the tendency of this process is to increase the political power of B. in the county of Orange, while that very increase adds to the power of the judge stationed at the capitol. Now we will

suppose a judge of the supreme court to possess some such confidential friend, in all, or nearly all, the principal counties in the state, producing the same results as I have supposed to have been produced in the county of Orange. Will not these petty regents in the different counties create in their patron a grand regent at the capitol ? By some such means, Judge Spencer acquired and possessed great power in *creating* yearly the appointing power, and the ability to create generally carries with it the ability to control the thing created. Judge Spencer was, and is truly, a great man, but he was not only fond of power but fond of exercising it. He was industrious, bold, enterprising and persevering. To these qualities it may be added, that he was a man of a commanding intellect, and one of the ablest judges, if not the ablest judge, in the United States. A high and enviable reputation as a jurist was accorded to him, as well by opponents as friends, and from his judicial station he could not be removed, let parties change and fluctuate as they might.

The political power of Judge Spencer was at its zenith from 1813 to 1815. In 1816 the popularity of Gov. Tompkins, and the talents, smooth and fascinating address, and management of Martin Van Buren, and their constant intercourse with the members of the legislature, enabled them to gain an influence in that body which the Judge became apprehensive would curtail, if not prostrate, his own, and he therefore deemed it desirable to call in some further aid. There was no man who could balance and neutralize the influence of Tompkins and Van Buren so effectually as De Witt Clinton, could he be restored to the confidence of the ruling party. But could he be restored ?

Judge Spencer had taken a most active and efficient part in destroying that confidence. In saying this, I do not mean to say that many parts of the political conduct of Mr. Clinton had not merited the animadversions of Judge

Spencer, or any other honest man attached to the republican interest. But, could Judge Spencer, who had been unreserved in his denunciations to his republican friends, go to those very friends and urge the restoration to their confidence and support the man he had denounced ? and, if he could bring himself to attempt it, could he hope for success in the attempt ? Would not his own words be retorted upon him ? A less enterprising, a less daring mind than Judge Spencer's, would surely have been deterred from such an undertaking. But he did, nevertheless, undertake it, and what is more wonderful, his efforts were successful. I must not be understood as intending to represent, or even insinuate, that Judge Spencer, on this or any other occasion, yielded his assent to any measure, or the support of any man, when he believed, or suspected, that such assent would prejudice substantially the great interests of the public. Far from it. On the contrary, I believe him to have been honest and patriotic in his views; but I believe he looked on these matters as mere personal questions, and thought he had a right to pursue a course calculated to advance his own views and interest, when that interest was not incompatible with the public good.

Unfortunately for Mr. Clinton, most of his republican friends, who at this time adhered to him, rather injured than aided him. With the exception of T. A. Emmett, who really could not be said to be a party politician, and S. Miller of whom I have before spoken, and P. C. Van Wyck, who was a man of fine talents,\* Mr. Clinton's New-York supporters were generally men of broken down fortunes, and appeared to do little else than laud the man they had selected for their patron. Several of the lobby agents for the Bank of America, and some of the republican members of the N. Y. legisla-

\* A few words contained in the first edition are here omitted, as they have been supposed to imply an imputation against Mr. Van Wyck, not intended by the author.



ture, who aided in chartering that institution, claimed to be the especial friends of Mr. Clinton. Some of them, no doubt, finding that they had lost their standing and reputation, professed the most ardent regard for Mr. Clinton, in the hope that their unpopularity would be imputed to the support of an unsuccessful political leader, rather than to their own misconduct. All these men were loud in their praises of Mr. Clinton, especially in his presence; and unluckily, in common with many other great men, he was rather too well pleased to hear his own praises chaunted, without much scrutiny into the characters or merits of the pipers. In the re-union with him, contemplated by Judge Spencer, the latter, therefore, had everything to lose and but little to gain, while Mr. Clinton, politically, had really nothing to lose and every thing to gain.

A circumstance occurred shortly before the meeting of the legislature, that put Mr. Clinton directly in communication with its members. A great and highly respectable meeting of the citizens of New-York was held, at which William Bayard presided, and John Pintard was secretary, when spirited resolutions were adopted in favor of constructing the Erie and Champlain canals, and an able memorial to the legislature was drawn up by Mr. Clinton, in the name of the meeting. As the agent of this meeting, and as canal commissioner, the presence of Mr. Clinton, at Albany, became necessary, and the discharge of his duties brought him frequently in contact with the members of the legislature. It is not my intention to enter into a detail of the agency which Mr. Clinton had in procuring the adoption of our splendid system of internal improvements, nor of the action of political men in relation to that measure, further than the measure itself shall seem to affect the standing and influence of politicians, and the action of parties.

Professor Renwick, in his biography of Clinton, and other writers who have favored us with the history of the rise and progress of the canal policy, will, of course, be consulted by those who are desirous of obtaining an accurate and correct knowledge of that interesting and important branch of the history of the state of New-York.

On the 7th of February a highly respectable meeting of gentlemen of both political parties was held in Albany, of which Chancellor Lansing was chairman, and the comptroller, Archibald McIntyre, was secretary, for the purpose of memorializing the legislature in behalf of constructing the canal.

This meeting and its proceedings had an effect, not only to give an impetus to the canal policy, but to give weight to the communications of Mr. Clinton in his intercourse with the members, and to diminish that apprehension, which small politicians sometimes entertain, of contamination by any intercourse with a person who is politically put *in Coventry* by the party to which they belong.

The federalists, before the adjournment of the legislature, nominated Rufus King for governor, and George Tibbits, of Troy, for lieutenant governor.

On the other hand, the democratic party held a legislative caucus on the 20th of February, at which Governor Tompkins and Lt. Gov. Taylor were nominated for a reelection.

A law was passed by this legislature, entitled, "An Act to provide for the improvement of the internal navigation of this state." By this statute the laws passed on this subject, in 1811 and 1812, were repealed, and Stephen Van Rensselaer, De Witt Clinton, Samuel Young, Joseph Ellicott and Myron Holley, were appointed canal commissioners. Mr. Van Rensselaer was selected in consequence of his great wealth and high character for integrity, and disinterested zeal for the welfare and prosperity of the

state; Mr. Clinton, on account of the intimate acquaintance he had acquired with all matters relating to the subject, his admitted zeal for the improvement, and his great talents. Mr. Young was highly esteemed for his talents and integrity. He was the friend of Gov. Tompkins, and had been supposed to be in doubt as to the expediency of the undertaking. His appointment may have been in part caused by a desire of the supporters of the canal policy to avail themselves of his influence with his immediate political friends, and to divest the board of commissioners of any party character. Joseph Ellicott was the agent of the great Holland Land Company, residing at Batavia; of course a zealous friend to the canal, and a man of wealth and influence; and Myron Holley was that year a member of the Assembly from Ontario county; a man of respectable literary attainments, personally much esteemed, and ardent in his support of the canal policy. These commissioners were, by this act, formed into a regular board, and required to cause all necessary surveys and estimates to be made, to receive grants and donations, and to report the result of their doings to the next legislature.

The republican party this year, was, on the score of talent, when compared with the federalists, indifferently represented. Mr. Young, although he had been speaker of the last assembly, was not returned as a member from Saratoga. A combination had been formed against him, which defeated his nomination by the republican convention held in that county; and although, I believe, he was voted for by a portion of the electors, he did not obtain a plurality of votes; and this schism among the republicans of Saratoga occasioned the election of one federal member, (Mr. Hamilton,) although the county was democratic by a considerable majority. Mr. John H. Beach from Cayuga, Col. Leavenworth from Delaware, and Mr. Cruger, the speaker, were almost the only members who took much

part in the debates. They were men respectable for their standing in society, and two of them held a middling rank at the bar as lawyers; but they were inexperienced as legislators, and lacked confidence in their own powers, when drawn into competition with the federal leaders in the assembly. Doct. G. H. Barstow from Tioga, was, that winter, for the first time, a member of a legislative body. He was a clear headed, sagacious man, of a discriminating mind, but he was diffident and, at that time, wholly unused to public extemporaneous speaking.

On the other hand, the federalists were represented by Peter A. Jay, a son of the late governor, one of the first lawyers of the city of New-York, of fine native intellectual powers and of an highly cultivated mind; William A. Duer from Dutchess, now known as an able and accomplished writer, who afterwards held the office of judge of the third circuit, and now presides over Columbia College with distinguished ability; and Thomas J. Oakley, who, although a new member of the legislature of New-York, had been for some time before a member of congress, and held a standing in that body highly respectable. For my part, I consider Thomas J. Oakley one of the most talented men which the state of New-York has produced. His intellectual powers were strong and vigorous, and he was capable of immense mental labor. Always cool and calculating, in the highest heat of debate he possessed a most perfect self control, and never permitted his feelings to get the better of his judgment. As a clear, ingenious and logical, though sometimes sophistical reasoner, he has appeared to me unrivalled in our legislative halls at Albany. He is not an orator. He fails of being so from his want of ardor of feeling, and his utter lack of imaginative powers. His coolness, his caution, his forecast, and his perfect self command, peculiarly fit him for a party leader in a legislative assembly. In congress he

differed from the over zealous eastern federalists. He wished, at least, to manifest an apparent disposition to furnish supplies to government for carrying on the war, and to confine his opposition to the *manner* in which the war was carried on. Mr. Clopton, an old and sagacious politician of Virginia, who was a member of congress from the adoption of the constitution until his death, told me, in 1816, that had the federal members of congress, during the war, put themselves exclusively under the management of Oakley, and implicitly followed his lead, in his judgment, the administration would have been prostrated.

Of Jacob Rutsen Van Rensselaer I have already spoken, as a man of respectable talents, adroit as a debater, and bold, decided and active as a political partizan. James Vanderpoel, a respectable lawyer from Columbia county, and subsequently judge of the third circuit, and James Lynch from Oneida county, now a judge of one of the New-York courts, were also members of the assembly during this session, and contributed by their talents and influence to sustain the federal side of the question in that house.

Before giving the result of the election, it may be proper to state, that a new organization had been made relative to the division of the state into senatorial districts; by which, among other alterations, the counties of Albany, Otsego, Schoharie and Chenango, had been annexed to, and made a part of the middle district.

The election resulted, as had been anticipated, in favor of the republican party. The city of New-York elected republican members of assembly, and, in the state, more than two-thirds of the members elect, of that body, belonged to the same class of politicians. All the senatorial districts, except the eastern, were democratic; and Tompkins and Taylor were re-elected by a large majority.

The senators elected from the southern district, were John D. Ditmis and Walter Bowne. Middle—Martin Van Buren, John Noyes and Peter Swart. Western—Ephraim Hart, John Knox and William Mellory.

## CHAPTER XXII.

FROM MAY 1, 1816, TO MAY 1, 1817.

BEFORE the close of the 29th session of the legislature, a personal interview had taken place between Mr. Clinton and Judge Spencer, and a reconciliation had been effected. There were other besides political reasons which led to this. Mrs. Spencer was the sister of De Witt Clinton; and it could not but be painful to her that such a state of feeling should exist between her husband and brother, as prevented even their speaking to each other. She was a perfectly amiable woman, and the judge properly appreciated her merits. He therefore did not fail of being desirous to remove this cause of her uneasiness and anxiety.

On the 8th of July, the council of appointment again met in New-York, and removed John Van Ness Yates from the office of Recorder of Albany, and appointed Philip S. Parker in his place. This removal was said to have been effected by a very pressing letter of Judge Spencer, addressed to Mr. Ross, one of the members of the council. Mr. Parker was a nephew and rather a favorite of Judge Spencer. Mr. Yates was a man of great versatility of talent, social, companionable, and on free and easy terms with all classes of citizens; and he had many friends, especially among what was called the lower order of community; but he was somewhat irregular in his habits and lax in his morals. He had been for a long time recorder. The alleged cause of his removal, was that he had been an agent for the applicants for a charter of the Bank of America, and a Clintonian. With respect to the aid he gave to the bank applicants, the charge seemed rather stale; and as to his having been a Clintonian, the time had arrived when it

did not seem quite consistent for Judge Spencer to allege *that as a sufficient cause of his removal from office. It was also said, that his ill-health prevented him from being able properly to discharge his official duties. The office, however, was not an important one, and his removal from it would hardly excuse this notice, was it not that less than two years afterwards it became the cause of serious political embarrassment, which will be stated in its proper place.*

As Gov. Tompkins had been nominated, and accepted the nomination, for the office of vice-president, it was anticipated that the office of governor of this state would become vacant on the fourth of March, then next; and very active measures were taken by the friends of Mr. Clinton during this summer to procure his nomination by the republican party for the office of governor, when it should become vacant. The friends of the canal were generally in his favor, and this brought nearly the whole of the great west to his support. Mr. Van Buren, although he was opposed to Mr. Clinton, seems not at this time to have felt much apprehension. 1817

The legislature met on the 5th of November, for the purpose of choosing presidential electors. David Woods of Washington county, was chosen speaker. He received eighty-four votes, while the federal candidate, James Emott of Dutchess county, received but thirty-three.

The governor's speech contains nothing remarkable. He did not utter a single word on the subject which at that time engrossed more of public attention than any other,—which was the construction of the grand canal.

His silence on so important a matter seems to me wholly inexcusable. The constitution commanded him “to recommend such matters to the legislature, as should appear to him to concern the good government, welfare and prosperity of the state.” He knew that the magni-



ficient scheme of opening a navigable communication between the tide waters of Hudson's river, and the great lakes, deeply agitated the public mind; and that it would become the duty of that legislature to decide that great and momentous question. Was it not his duty, as the governor of the state, to have officially advised them of his opinion on the matter? If he was in favor of it he should have so declared himself; if against it, he should have warned them not to adventure on the measure. There was a timidity, (may I not say a littleness?) in thus evading the question, unsuitable to the character of an able, honest and independent statesman.

Electors were chosen favorable to the election of Monroe and Tompkins. The ticket was headed by Henry Rutgers of New-York, and Samuel Chipman of one of the western counties, as state electors. It does not tell well for our institutions, when I affirm, what I verily believe to be true, that ninety-nine out of one hundred of the citizens of this state would have preferred some other man for president to James Monroe. But it is nevertheless true, that it is many times excusable, and sometimes one's duty, to vote for men who are not our first choice; upon the principle of submitting to a lesser, for the purpose of avoiding a greater evil. The legislature adjourned to the 21st of January, then next.

On the 28th of January, 1817, the governor sent a message to the legislature recommending the entire abolition of slavery in the state of New-York, to take place on the fourth day of July, 1827. By an act passed some years before, all persons born of parents who were slaves *after* July, 1799, were to be free; males at twenty-eight and females at twenty-five years of age. The present legislature adopted the recommendation of the governor. This great measure in behalf of human rights, which was to obliterate forever the black and foul stain of slavery from

the escutcheon of our own favored state, was produced by the energetic action of Cadwallader D. Colden, Peter A. Jay, William Jay, Daniel D. Tompkins and other distinguished philanthropists, chiefly residing in the city of New-York. The Society of Friends, who never slumber when the principles of benevolence and a just regard to equal rights call for their action, were zealously engaged in this great enterprise. Gov. Tompkins deserves to be, and his memory will be embalmed in the bosom of every human being who loves and reveres the munificent and merciful Father of the Universe, and duly appreciates the equal rights of man for the efficient part he took in behalf of the crushed slave. If in reference to internal improvements, his action was that of a calculating and wily politician, in the cause of humanity he was bold, energetic and decisive. Here, he did not stop to calculate. Here, governed by the humane and generous feelings which were inherent in his nature, (for I believe constitutionally he possessed a kind and generous heart,) he did not hesitate to assume responsibilities, and obey the dictates of justice and the impulse of humanity. I can forgive him for his conduct in relation to the canal, but I could never forgive myself were I for a moment to forget to be grateful to him for this great and godlike act.

When the legislature convened, it was found that a strong and considerably powerful portion of the republican members were for nominating Mr. Clinton for governor, when that office should become vacant by the election of Gov. Tompkins to the vice-presidency. Among the most active were Mr. Hart and Mr. Ross of the senate, and Mr. Speaker Woods and G. W. Barstow of the assembly. Still, such were the remaining prejudices against Mr. Clinton, founded on his conduct during the presidential canvass with Mr. Madison, and more especially upon his action during the contest for the election of governor

in 1813; aided and kept alive as these prejudices were, by the address and efforts of Gov. Tompkins and Mr. Van Buren, that it was doubtful whether a majority for him in the legislature could be obtained. But Mr. Clinton had an immensely powerful ally who was not a member of the legislature, and that ally was Ambrose Spencer. He was truly a host within himself.

The members most efficient in opposing the nomination of Mr. Clinton, were Van Buren, P. R. Livingston and Bowne of the senate, and the representatives in the assembly from the city of New-York, and generally, the members from the southern district.

Three distinct schemes were considered by Mr. Van Buren, and those acting with him, to defeat the project of making Mr. Clinton governor.

First. It was proposed, inasmuch as neither the constitution of this state nor of the United States, had expressly declared that it was incompatible for a vice-president of the United States to hold that office and at the same time hold the office of governor, that Gov. Tompkins should hold both offices. This expedient was soon rejected and probably by Mr. Tompkins himself. It is not to be presumed that so wary a politician, then in the prime of life, would venture to encounter the clamor, which he must have foreseen, the attempt to execute such a plan would excite; and what was worse, such clamor would be well founded; for although, the holding of the two offices was not expressly unconstitutional, yet it was most evident that it was palpably inconsistent with the spirit of the two governments and that the anticipated clamor would be founded on the immutable principles of right.

Second. The twentieth article of the constitution provides, that "in case of the impeachment of the governor, or his removal from the office by death, *resignation or absence from the state*, the lieutenant governor shall exer-

cise all the power and authority appertaining to the office of governor until another be chosen, or until the governor absent or impeached shall return or be acquitted." Under this clause in the old constitution it was proposed to claim that the lieutenant governor would constitutionally be governor until the regular gubernatorial election, which would not take place until the year 1819. But to this the friends of Mr. Clinton replied, that this clause merely intended that in case of the death, resignation, &c., of the governor, the lieutenant governor should execute the power of a governor, only until the next succeeding annual state election; and in support of this construction, they referred to the seventeenth article of the constitution, which ordains "that the supreme executive power and authority of this state shall be vested in a governor, and that statedly, once in every three years, *and as often as the seat of government shall become vacant*, a wise and discreet freeholder shall be chosen."

After some reflection it would seem that Mr. Van Buren did not choose to hazard the reputation of his party, and his own reputation as a lawyer, on this ground; for although, when after the resignation of Gov. Tompkins, a bill was brought into the assembly to provide for the election of a successor, by Mr. Ford of Jefferson county, which was passed by seventy-four members voting in the affirmative, yet there were thirty-two votes in the negative, nearly if not all of whom were opponents of the nomination of Mr. Clinton. In the senate, the bill did not encounter a very serious opposition. Messrs. Van Buren, Livingston and others, voting for it; although Messrs. Bowne, Cantine, (Van Buren's brother-in-law,) and others, voted against it.

Third. The only remaining means to defeat the views of the friends of Mr. Clinton, was to nominate some oth-

er person for the republican candidate for governor, by obtaining a majority in the legislative caucus.

Three of the members of the council elected on the 13th of February, of this year were decidedly in favor of Mr. Clinton; that is to say, as between Mr. Van Buren and Judge Spencer, they were the friends of Spencer. This was a great point gained, and it seems to me Mr. Van Buren and Gov. Tompkins, if they possessed the power, should have prevented this. Whether they made any systematic effort to do so, I am not advised.

The council consisted of Walter Bowne from the southern, John Noyes from the middle, John I. Prendergast from the eastern, and Henry Bloom from the western districts. All but Mr. Bowne were for Mr. Clinton. Hence, those who sought office well knew whose nomination for governor it was their interest to support.

A large majority of the federal party were very anxious for the nomination of Mr. Clinton; and in case of his nomination, they did not intend any opposition. Among those most active in their endeavors to produce this determination of the party, were Judges Van Ness and Platt, J. R. Van Rensselaer, Elisha Williams, and generally the leading federalists in the city of New-York. The ardent temperament of Judge Van Ness, and some other federalists would not permit them to remain neutral on the question respecting the nomination then agitated among the republicans.

One principle ground of attack upon Mr. Clinton, by Mr. Van Buren and his friends was, that Clinton kept up a secret understanding with the federalists, and was still acting in concert with that party; and the zeal manifested by Judge Van Ness and others, for the selection of Clinton as the gubernatorial candidate, was managed by Mr. Van Buren with great skill and adroitness, to alarm the fears and excite the jealousies of the republicans. Under

these circumstances, and considering the popularity of Gov. Tompkins, and the extraordinary tact, address and persevering industry of Mr. Van Buren, the friends of Clinton very justly entertained apprehensions that after all, in a purely legislative caucus, a majority would ultimately be found against him.

Heretofore, it had been the uniform usage of the democratic party to select their candidate for governor, by the majority of voices declared at an assemblage of men composed exclusively of the republican members of the legislature. By this arrangement those republican citizens who resided in counties represented by federalists, could have no voice in the selection of a candidate for that important office. This the Clintonians complained of as unreasonable and unjust. They therefore, proposed that delegates should be chosen in county convention, which convention should be formed of delegates chosen at the primary meetings of republicans in the respective towns, and that the delegates thus chosen from the counties equal in number to the members of assembly from the respective counties, should, in a caucus to nominate a governor, have the same rights and exercise the same powers as republican members of the legislature. It was, I believe, well understood, that in the greatest proportion of the counties represented by federalists, a very large majority of the republicans were in favor of the nomination of Mr. Clinton. Besides, the Clintonians, by means of the council of appointment, controlled the patronage of the state, and it was not difficult for a man who understood the use of that machine as well as Judge Spencer, to control by its influence, the action of most of the county conventions. Hence, it was most evident that the adoption of the scheme could scarcely fail to forward, and perhaps, I may add, ensure the triumph of Mr. Clinton.

In accordance with these views, a republican conven-

tion was first held in the county of Albany, at which John J. Moak was chairman, and Jacob Lansing secretary, on the fourth of February, when it was resolved that the counties represented by federalists in the legislature, ought to be represented in the state convention to nominate a governor, by republican delegates chosen by such counties; and Albany being represented by federalists, John Woodworth, Elisha Jenkins, John McCarthy and Thomas Harman were appointed delegates from the county of Albany. Other counties respectable for their wealth, number, and influence, followed the example.

The delegates to the state convention thus chosen were generally favorable to the nomination of Mr. Clinton; and like the delegates from the county of Albany were composed of republicans of high standing and character. From the county of Oneida, Nathan Williams, and Henry Huntington were chosen, and from the county of Ontario, Gideon Granger, the late eminent and distinguished post-master general was a delegate.

One difficulty which Mr. Van Buren and his friends had to encounter, was to fix upon an opposing candidate to Mr. Clinton in caucus. Who was the man that would accept the post and combine the greatest strength, was a question not easy to be judiciously decided. They finally fixed on Judge Yates. He had adhered to, and defended Mr. Clinton long after he had been denounced by Judge Spencer. On his circuit the preceding summer, he had in various places urged his friends to support the nomination of Clinton. It was supposed that the known friendship of Judge Yates to Mr. C. would induce some of the latter to support the former; but a different result was produced. Men felt indignant when they were invited to support a man in opposition, who had himself taken pains and been instrumental in convincing them that Clinton ought to be chosen governor. A day

or two before the meeting of the state convention, Judge Yates positively declined being a candidate. This produced some confusion in the ranks of the opposition, but they finally fixed upon Gen. Peter B. Porter as their candidate.

The state convention was held at the capitol on the 25th March. Upon balloting for a candidate, Mr. Clinton received eighty-five votes and Gen. Porter forty-one. It was understood that sixty members and twenty-five delegates voted for Mr. Clinton, and thirty-three members and seven delegates for his opponent.

A few days before the fourth of March, Mr. Tompkins resigned his office of governor, and the executive authority then devolved upon Lieutenant Governor Taylor, who, I have omitted to mention, was nominated for re-election.

Mr. Tayler was an uneducated man of great native sagacity. By his shrewdness and excellent judgment, and also by his correct business habits, he had in early life acquired a large estate. He had improved his fine native mind by considerable reading, and by being long in public office he had acquired from association a deportment and address at once dignified and agreeable. As a legislator he was always exceedingly careful of the interest of the state, and it was with great reluctance that he would consent to an expenditure of its funds for any purpose. Perhaps his error as a legislator consisted in excessive parsimony when the state was concerned. His only fault was one which is common to all men, he was naturally selfish, and that propensity manifested itself not only in his pecuniary transactions, but in the bestowment of offices, which either directly or indirectly came within his control or influence. This propensity increased with his age. Gov. Tayler had no children, but he had adopted a child who was his relative, and who afterwards became the wife



of Dr. Charles D. Cooper, as his daughter, and treated her and her husband and their children as his own family.

No important business was done by the council while Mr. Tayler was president of it, with one single exception. While Mr. Bowne was absent in New-York, Mr. Robert Tillotson was removed from the office of secretary of state, and Dr. Charles D. Cooper was appointed in his place. This removal was without reason, and indeed without excuse; For no objections were made against the political principles of Mr. Tillotson. True, he had opposed the nomination of Mr. Clinton, which he had an undoubted right to do, and which it was his duty to do, provided he supposed the republican party would thereby be endangered, or that Mr. C.'s administration would not be so beneficial to the state, as would be likely to be that of some other person who might be selected. Not the least suspicion of official misconduct was breathed against him; he had held the office but a very short time, and came into it not by the removal of an incumbent, but to fill a vacancy produced by the resignation of Mr. Porter. It was a mere exertion of power to provide a place for a member of the family of the president of the council. I do not make these remarks from any want of respect to the merits and character of Doct. Cooper. I knew him long and well, as a remarkably correct man, and as a man of integrity and honor. I am equally unwilling to charge Gov. Tayler with intentional error. Long habit had induced him to believe that if a man could legally get possession of an office for himself or friend, he ought to do so. This error grew out of the form of the government itself, and the manner in which public opinion had tolerated its action through that singular machine, called the council of appointment.\* Mr. Noyes and Mr. Bloom were both il-

\* Judge Spencer was guilty of the same error when he urged on the preceding council the removal of Mr. J. Van Ness Yates and the appointment of his nephew.

literate men, and they, as well as Mr. Prendergast, were entirely unaccustomed to public life, and strangers to the possession or exercise of any other powers than those which belong to private citizens. In a short time, they knew that they should return to private life. It is not uncharitable to say, that neither of them knew the extent of the powers they possessed, much less did they consider the serious effects which would ultimately be produced on society by their capricious removals and appointments; and yet nearly all the officers of the great state of New-York were then held subject to the arbitrary will and pleasure of these three men.

The bill committing the state to construct the canals, became a law on the last day of the session, which terminated on the 15th April. The vote in the assembly stood sixty-four to thirty-six. The sixty-four members who voted in the affirmative, were composed principally, if not entirely of the friends of the nomination of Mr. Clinton and the federalists. The thirty-six noes were chiefly his opponents.

In the senate the bill passed by a vote of eighteen to nine. Those who voted against the bill, with the exception of two, (Messrs. Noyes and Bloom, who were rather Spenceronians than Clintonians,) were opponents of Mr. Clinton. There were, however, five senators who were zealous anti-Clintonians who voted for the bill. Perhaps it is not too much to say, that this result was produced by the efficient and able efforts of Mr. Van Buren, who was an early friend of the measure.

I regret to feel compelled to refer to the proceedings in the court of errors as an evidence, or rather as affording suspicion, that party spirit may enter into that high judicial tribunal.

A bill in chancery had been filed by the residuary legatees of Walter Franklin, to set aside a sale by the

executor of Franklin, of a large tract of land to John L. Norton and De Witt Clinton. Chancellor Kent dismissed the bill and ordered the sale confirmed. The complainants appealed to the court for the correction of errors, and it was argued in the winter of 1817. A few days before the adjournment of the legislature, the court of errors pronounced their judgment affirming the decree of the chancellor. Judge Platt gave the opinion of the majority of the court, (14 *John. Rep.* 527,) in which Judges Van Ness and Yates concurred, and Spencer being connected with the respondents, gave no opinion. Chief Justice Thompson read an opinion in favor of reversing the decree. All this was in accordance with the regular course of proceedings in that court. The questions to be decided were as distinct from party or political questions, as any questions can be, and yet every senator who voted against Mr. Clinton's nomination in caucus, voted for reversing this judgment; and every one who voted for Mr. Clinton in caucus, voted for him on the decision of this case.

It is true, and I am glad it is true, that there were questions in this case on which the intelligent and honest might differ; but how thirty-five men should *happen* to differ on questions upon which depended the rights of a distinguished politician, exactly according to their respective opinions of the merits of that individual, is marvellous. I am happy to state, that Mr. Van Buren having been employed as counsel by one of the parties in a court below, did not vote. It is hardly possible that precisely this result could have been produced, unless some of the senators and judges in this case were influenced by party prejudices, for or against Mr Clinton.

The federalists at, and previous to the general election, acted in accordance with the views they had previously intimated. They held up no candidate in opposition to Mr. Clinton. Indeed they went further in their courtesy towards Mr. Clinton and his friends. In those counties where the Clintonian republicans held a strong preponderance, although the federal party in such counties was confessedly in the majority, they made no nomination of members, for the express purpose of permitting Clintonian republicans to be elected. Such was the case in the respectable county of Oneida: a county which at that time was known to contain a large federal majority. The federalists of Oneida stated that if the republicans would nominate respectable candidates for the assembly, who would support the administration of Mr. Clinton, no nomination should be made in opposition to them. The republican party in that county did not afford them any just reason to complain. Among the candidates which they selected, was that excellent and venerable man, Henry Huntington; Nathan Williams, who had long been a member of congress, and was afterwards judge of the fifth circuit, and George Brayton, a man universally esteemed and beloved. The federalists, however, were careful to place some of their ablest men in the assembly to watch over their interest, among whom was Mr. Oakley from Dutchess county.

Mr. Clinton and Mr. Tayler may be said to have been elected without opposition, for although the Tammany men in New-York sent tickets into every county in the state, on which the name of Peter B. Porter for governor was printed, no serious effort was made for his election.

The senators elected this year were Jonathan Dayton and Stephen Barnum, from the southern district;

Jabez D. Hammond and John Lounsbury, from the middle; Roger Skinner, Samuel Young and Henry Yates, from the eastern; and Isaac Wilson and Jediah Prendergast, from the western district. They were of course all republicans.

## CHAPTER XXIII.

FROM MAY 1, 1817, TO MAY 1, 1818.

IN 1815 we saw De Witt Clinton expelled from the mayoralty of the city of New-York, denounced by the republican party, in the state and nation, as utterly unworthy of confidence, as a sort of political *Bohan Upas*, with whom the slightest intercourse would contaminate, and given over by the federalists as a man upon whose fortunes they could not hope to rise. Among politicians "none was so poor as to do him reverence." We now, after the lapse of only two years, see him selected by a majority of the republicans of New-York as their first man, and unanimously elected governor of the Empire State. How changing, how transitory is the fortune of political men, in free as well as in despotic governments ! The extremes frequently approach near each other. But an unanimous election, in a representative government, is, to an ambitious man, highly dangerous. That statesman is safest who stands at the head of a well organized party, which is opposed by another party nearly equal to it in numerical strength.\*

\* It was a deceitful calm; for a large portion of the democratic party were deadly hostile to the newly elected governor, and what reliance could be placed on many of the leading federalists, may be gathered from the following letter, written by Mr. Coleman to a confidential political friend in Philadelphia, which accidentally fell into the hands of the editor of the National Advocate. I copy it as republished in Mr. Coleman's own paper:—

"Extract of a letter from William Coleman, editor of the New-York Evening Post, to Charles Miner, late one of the editors of the True American, dated September 28, 1816:—

"Why do you not make a little review of Mr. Stile's pamphlet against Bionis, such a one that we may all re-publish. Generally speaking, I feel disposed, in common with the leading federalists here, to stand perfectly still, and wait for events to happen, as Jefferson says, we know not when. Something may come from the quarrels of opposite sections of the democratic factions, and I think the most we can do is occasionally to fan the embers.

W. COLEMAN."

In pursuance of the law passed the last session, contracts had been made for constructing parts of the canal, and during the summer of this year that great work was commenced.

Mr. Clinton convened the council of appointment in August, and, on the 27th of that month, they removed John L. Broome from the office of clerk of the city and county of New-York, and appointed Benjamin Ferris in his place. They also removed Robert McComb, son of the celebrated land speculator Alexander McComb, from the office of clerk of the circuit, and replaced John W. Wyman in that office.

I am not aware of any other cause of these removals than a political one, and I know of no political cause, except that the incumbents were Tammany men. No other material movements were made by the council. A great pressure was made on the governor, by his old friends who had been turned out of office by the council of 1815, but he excused himself to them by alleging that the council would not consent to any thing like a system of general removals. I shall have occasion, hereafter, to present my views on the policy which the governor's New-York friends desired him to pursue, in relation to removals and appointments.

In the autumn of this year, Gov. Clinton issued a proclamation recommending that Thursday, the 13th November, be observed as a day of thanksgiving and prayer. I mention the circumstance because Gov. Jay, during his administration, issued a like proclamation, and attempted to adopt the custom, which had prevailed in the New-England states ever since the landing of the pilgrims on the rock of Plymouth, of setting apart one day in the year as a day of public thanksgiving. But, after issuing one proclamation, Mr. Jay found it necessary to abandon the attempt, it being represented, by his opponents, as a

contrivance to enlist the religious prejudices of the community in his favor. The proclamation of Gov. Clinton was well received, and the precedent furnished by him has since been followed by all his successors. This, I think, affords evidence that less apprehension of danger of a connection between church and state, or religion and politics, existed in the public mind in 1817 than in 1795.

The legislature met on the 27th of January, 1818, and David Woods, of Washington county, was re-elected speaker without opposition. He received ninety-seven votes.

I have now arrived at a period when I became a member of the senate, and was an eye and ear witness to many things which occurred. I hope I may be pardoned in the statements which I shall make in relation to my own motives and views. I assure my readers it is not from a desire to exhibit myself, or my actions, to the public, that I shall indulge in this sort of detail. My apology for it is, that I *know* what my own views and motives were, and have reason to believe that others similarly situated, with whom I acted, were governed by the same, or nearly the same, considerations.

I had early connected myself with the republican party, and was strongly attached to the principles held by that party. What little of official distinctions I had enjoyed, had been bestowed on me by the republican party. I had viewed the proceedings of the eastern federalists with abhorrence; and I heartily disapproved of the conduct of the New-York federalists, during the war.

As early as the year 1808, I had, in the course of my business, formed a personal acquaintance with Mr. Clinton. I thought well of him as a man and as a statesman. When he was a candidate for the presidency he received my cordial support, because I believed that, if elected, he would prosecute with greater vigor than Mr. Madison, the



war against Great Britain. When the presidential contest was decided against Mr. Clinton, it, by no means, diminished my zeal for the vigorous prosecution of the war, or my ardor in support of the democratic party in the state and nation. This, the little circle of my acquaintance who are now in life, well know. I was dissatisfied and disgusted with the conduct of Mr. Clinton on account of his opposition to the election of Gov. Tompkins in 1813; and, for a time, I felt that he had forfeited the confidence of the democratic party. After the peace, and in the summer of 1815, when the principal causes of the controversy between the two great parties no longer existed, inasmuch as Mr. Clinton manifested a disposition again to act with the democratic party, I was, I confess, desirous that he should be restored to their confidence, in order that the state might avail itself of his talents and services, as well as from personal respect and friendship for him. With these impressions, I did what I could to produce a state of feeling, in the minds of those republicans with whom I communicated, favorable to the restoration of Mr. Clinton, and to his support as governor of the state, and I felt thankful to Judge Spencer for his great and successful efforts to produce the same result. But it was entirely contrary to my wishes, and at war with my judgment, to form any connection with the federalists, *as a party*. Not that I desired to persecute or even proscribe them. I hailed the era of good feeling which they announced, as adding, as well to the reputation of the country, as the happiness arising from social intercourse, and I hoped the time would soon arrive when the state, in accordance with the feelings of the republican party, could avail itself of the official services of individual federalists. At the period of which I am speaking, when I first became a member of the senate, I was entirely ignorant of what we call New-York politics. For Governor



DIE WITTE CLINTON.

1794-1804



Tompkins I had great respect. Mr. Van Buren, Mr. Young, and Mr. Skinner, I had long known, and highly esteemed. True, they had differed in opinion with me, respecting the propriety of selecting Mr. Clinton as the gubernatorial candidate; but what was that? They had quite as good a right to their opinions as I had to mine, and might, very probably, be right, and I wrong. It was a difference of opinion about the merits of an individual, not a difference of principle in relation to measures. The circumstance of this trifling difference produced, in my mind, no anxiety. I commenced acting with them with feelings the most cordial. My determination was to give Mr. Clinton a fair and honest support, in all measures which my judgment did not condemn, and if, at the end of his term, it should appear that his services were not acceptable to the majority of the republican party, then to select another man for governor; and, as he had been nominated and elected in pursuance of the usages of the republican party, as governor of the state, I supposed such were the views of Mr. Van Buren, and those who had acted with him in opposing the nomination of Mr. Clinton. A very few days residence in Albany, and attendance in the senate, convinced me of my error. I found, on one hand, that the governor was cold, if not vindictive, towards Mr. Van Buren and others, who had opposed his elevation, and on the other, a determination to excite prejudices and jealousies against the governor, to render him unpopular with the republican members of the legislature, to embarrass him in the discharge of his executive duties, and thwart him in his measures.

The governor, in his first speech, presented a very clear and able view of the financial condition of the state; he recommended several important improvements in our municipal laws, among which was the abolition of the division of the state into districts, for the purpose of criminal

prosecutions, and the appointment of an attorney for the people in each district; and he advised, in lieu of this system, the appointment of an attorney for the people in each county. He suggested other measures of judicial reform, and he eulogized the canal policy, and gave a very flattering account of the progress already made in the construction of the canals. The speech was well received by the public and generally approved.

The members of the assembly from the city of New-York were from the hot bed of Tammany Hall. All of them, with the single exception of Cadwallader D. Colden, were open and bitter in their denunciations of the governor, and the system of internal improvements, at the head of which he stood, and with which he was identified. They predicted, with confidence, the utter failure of the system, and with it, the serious embarrassment and disgrace, if not the ruin of the state. They claimed that the reputation of Mr. Clinton was staked on the fate of this system, and they professed their willingness to abide the result. The friends of Mr. Clinton did not hesitate to join in the issue which they tendered. The principal and most zealous members of the New-York delegation, were Ogden Edwards, son of the celebrated Pierpont Edwards, and now a judge of the first circuit, Peter Sharpe and Michael Ulshoeffter. In their train followed Isaac Pierson, Henry Meigs and Clarkson Crolius, also from New-York, and, I regret to add, that Gen. Erastus Root, then likewise a member from Delaware, was equally bitter in his denunciations against the governor and the canal policy.

I have said the New-York members emanated from Tammany Hall. There was an order of the Tammany Society who wore in their hats as an insignia, on certain occasions, a portion of the tail of the deer. They were a leading order, and from this circumstance the friends of

*report*

Mr. Clinton gave those who adopted the views of the members of the Tammany Society, in relation to him, the name of *Bucktails*; which name was eventually applied to their friends and supporters in the country. Hence, the party opposed to the administration of Mr. Clinton, were, for a long time, called the **BUCKTAIL PARTY**.

When the senate came together, the members of it, in respect to their political views, may be divided into four classes. The first, and most numerous class, were determined, at any rate, to get rid of Mr. Clinton; the second, were equally determined to support him; the third, were wavering in their opinions and views; the fourth, were federalists.

The first class consisted of—Van Buren, Livingston, Skinner, Young, Cantine, Bowne, Barnum, Crosby, Dittmis, Knox, Dayton, Ogden and Seymour—thirteen. The second class—Bates, Hart, Hammond, Lounsbury, J. I. Prendergast, Jed. Prendergast and Ross—seven. The third class—Yates, Noyes, Swart, Wilson, Bicknell, Swift and Mallory—seven. The fourth class—Van Vechten, Tibbits, Allen, Hascal and Frey—five.

At the first glance it will be perceived, that of the twenty-seven republican members of the senate, the balance, not only of numbers, but of talent, was decidedly in favor of the *Bucktails*. Of the unsettled and doubtful members in the third class, with the exception of Mr. Yates, who was a sound minded and respectable lawyer, there was not an individual who claimed much talents as a legislator. In the second class there was an almost equal defect of talent, and more especially of party tact and address. Mr. Bates was a shrewd, sensible yankee. As a county politician, he undoubtedly possessed some efficiency; but his mind had never been enlarged and cultivated by education, and he was narrow and selfish in his views and principles of action. He was bitterly hostile

to Mr. Van Buren, for what particular cause I know not; and was much governed, in his political action, by the impulses of feeling, and of personal likings and dislikings. Mr. Hart was an enterprising country merchant from Oneida county, and had acquired a considerable estate. He was ardent in his feelings, warm in his friendships, and much influenced by his pecuniary interests. He was an ardent supporter of the canal policy, and therefore a warm friend to the governor. His prejudices against the federalists were deep and bitter, and he was equally hostile against Mr. Van Buren. He was, in my judgment, quite incapable of forming any system of political action on a basis broad enough to lead to the formation, or even to secure the preservation of a party. His great anxiety appeared to be, to guard and promote the interest of the Utica Bank, in which he was a large stockholder, and to provide for the completion of the Erie canal. As a party man he acted without system, and sometimes apparently without any rational motive.\*

\* As an evidence of Mr. Hart's utter want of political tact, as well as of his rashness as a legislator, I give the following case :—

WILLIAM L. STONE, now, and for a long time heretofore, the distinguished and able editor of the Commercial Advertiser of New-York, was then the conductor of the Albany Daily Advertiser, a leading federal paper. It was known to us all, that Col. Stone, although a federalist, was a decided friend to Gov. Clinton, and was determined, when he could do so with effect, to devote his paper to his support. There was, at that time, as there had been before and has since been, many persons in attendance on the legislature as agents to procure charters for banking and other companies. Mr. Sharpe, of New-York, and several other Bucktail members, took it into their heads to deliver several severe philippics against the lobby, expressing their suspicions that these agents would attempt to corrupt the members of the legislature. Mr. James O. Morse, a respectable lawyer from Otsego county, since first judge of that county, a keen, sarcastic writer, and who himself occasionally visited Albany for the purpose of procuring a charter for the Central Bank, wrote a communication tending to ridicule Mr. Sharpe and others, on account of the apprehensions they affected to entertain of the danger of bribery and corruption by the lobby. Mr. Morse, among other things, proposed, in his communication, that a wall should be erected around the capitol, so strong and high as to secure Mr. Sharpe and his friends from the apprehended danger of an attack from the lobby. This article appeared in Col. Stone's paper. The suggestion I have mentioned, was the most offensive part of it.

Col. Stone usually attended the Senate to report the proceedings of that body

The two Prendergasts were brothers, and both bred physicians, upright and good men, but neither of them well calculated to effect much in a legislative body. Of Mr. Ross I have formerly spoken. He had, for many years, followed the lead of Judge Spencer; had floated along with the republican party, and when all his political action, in the legislature, was sustained by the power of a great, and generally a triumphant party, he seemed to move on smoothly; but the present was quite a new scene, and he was entirely inadequate to act the part, which, from his long standing in the legislature, naturally devolved upon him. Mr. Lounsbury was an highly upright and worthy practical farmer, a man of sound mind and good judgment, but incapable of acting with much effect as a legislator or member of a party.

With regard to myself, it is scarcely necessary for me to say, that my want of political experience and a knowledge of the character and motives of the men around me; my utter defect of talent in extemporary debate; and my want of confidence in myself, rendered me almost, if not quite, useless to the party with whom I wished to act.

Of Mr. Van Buren, who stands at the head of the catalogue of the first class, it is unnecessary to speak. He

for his own paper. Mr. Hart was pleased to consider this good natured paragraph, intended to take off some of the leading Bucktails of the assembly, as a contempt of the senate, and forthwith moved a resolution that William L. Stone be excluded from the bar of the senate. Mr. H. soon found that such a resolution would not be approved by the senate, and therefore requested that it might lay on the table; but, at the instance of Col. Stone, Mr. P. R. Livingston, soon afterwards, highly to his credit, called for the consideration of the resolution, and Mr. Stone, though he declined disclosing the name of the author of this treasonable article, having assured the president of the senate that he did not intend, by its publication, to treat either branch of the legislature disrespectfully, it was unanimously decided that no further proceedings should be had in the matter.

Here, was a causeless attack made upon a respectable newspaper editor; in principle wrong, because its tendency was to abridge the liberty of the press, and also to convert a friend into an enemy, with no other object than to gratify the personal pique of the mover. Could a political party hope to sustain itself, whose leaders were so void of any thing like policy, so inconsiderate, and so reckless of consequences.



had then been four years a leading member of the senate. His splendid talents, and great political tact, are too well known to require description.

Mr. Young's character is now well known, and his great talents universally admitted. I may, however, be allowed to say, that I think Mr. Young a perfectly honest man. His defect, as a politician, is, that he is too vindictive\* in his feelings towards his opponents. He investigates a question ably, and he arrives at his conclusions logically, clearly and honestly; but then, if you still resist the conclusion to which he has arrived, he is too apt to pronounce, in effect, that you are either a fool or a knave, and he honestly believes you are so. The reason is, that he himself thinks he sees clearly, and knows he forms his opinions with perfect integrity. The necessary result is, that he doubts either the sincerity or the ability of the man with whom he differs. He does not suspect the certainty of the correctness of his own judgment, so much as all men ought, and he does not make allowance enough for the weakness and imperfection of other men. Hence Mr. Young, though an honest man and a great man, can never be a popular man.

Roger Skinner was a man pleasing in his address; his talents were rather of the persuasive than solid kind, and, as a companion, he was quite agreeable. He was fond of political management, and rather reckless as to the means he employed to accomplish his ends. He was said to be bitter in his feelings as a partizan. If such was the fact, the evidence of it did not come within my observation. I thought him naturally kind and obliging. He was, undoubtedly, very bitter in his feelings against Gov. Clinton personally. To what particular cause this was owing, I was never informed. Probably the governor had given him offence individually.

\* See Note A. vol. 2, p. 539.

WALTER BOWNE had formerly been a business man, and was now a man of wealth; shrewd and sagacious as a partizan, but generally courteous in his manner. He, too, was extremely bitter in his hostility to the governor. To me it seemed strange that a man of his general acquaintance with life, and with public men, could be so violent in his animosity against any individual, merely because he was opposed to his political advancement.

PETER R. LIVINGSTON came into the senate with all the prejudices of his family against the Clintons. Indeed, those prejudices seemed to be all concentrated in him. He was a man of fine fancy and great declamatory powers. Few men could address a popular assembly with more effect than Mr. Livingston. His usefulness, as a legislator, was impaired by a lack of industry and laborious attention to the details of business.

MOSES I. CANTINE, a respectable lawyer from Catskill, was the brother-in-law of Mr. Van Buren. Frank, generous and kind in his social intercourse, no man could personally dislike him. Though a zealous partizan, the kindness of his nature rendered him incapable of bitterness. His talents, if not great, were at least respectable.

HENRY SEYMOUR was a country merchant from the county of Onondaga. He was a well bred man, and very gentlemanly in his deportment. His great native shrewdness and sagacity had been improved and highly cultivated by an association with genteel society. As a politician, he was cautious and wary. His opponents charged him with being jesuitical, but of this I cannot speak from my own knowledge; for he certainly never gave me any proofs of a want of sincerity and candor. I do not think his opposition to Gov. Clinton originated from personal motives. I am inclined to believe that the apprehension that Mr. Clinton's policy, if sustained, would endanger

the republican party, and his attachment personally to Mr. Van Buren, controlled him in his political action.

ISAAC OGDEN, of Delaware, was a man of strong and vigorous intellect, and of great decision of character. He, too, for some cause unknown to me, seemed personally vindictive against the governor.

The residue of the gentlemen of the first class were mere voters who always followed their file leaders.

With respect to the federalists, who constituted the fourth class, I remark briefly that Messrs. Allen, Hascal and Frey were upright, honest, and honorable men. They were disposed to give Mr. Clinton's administration an honest and honorable support, because they thought it tended to advance the prosperity of the state. Mr. Allen was an excellent lawyer; and a more pure and scrupulously honest man than Ralph Hascal, never lived.

That Mr. GEORGE TIBBITS was a man of profound sagacity, is well known. His knowledge, acquired during a long and successful life devoted to mercantile, commercial and banking business, rendered him an useful member of the senate; but his habits of traffic, which he had acquired in business, or some other cause, rendered him inclined to *trade*, as a politician. He was desirous of receiving a "*consideration*" for all his political acts. He considered the prospects of the federal party to be prostrated, and he was, therefore, disposed to make the most of his present position, and was quite indifferent whether it was the Clintonians or Bucktails with whom he negotiated. [*See Note A. Vol. 2. p. 541.*]

Of the talents of ABRAHAM VAN VECHTEN I need not speak. They are universally admitted to be great. As a legislator, he possessed one characteristic which proved him to be a genuine descendant and true representative of the Low Dutch. He had an instinctive horror at all innovations, and at every thing which was new. What never

had been done, he seemed to think ought never to be done. In politics he was the very impersonation of ancient federalism. He could not look on any man with favor, who, in the good times of John Jay, was in the ranks of the opposition, or who had subsequently attached himself to the party which opposed that great and good man. He looked upon De Witt Clinton, Ambrose Spencer, D. D. Tompkins, Smith Thompson and Martin Van Buren as in *pari delicto*, and seemed like Queen Margaret, in the play of Richard the Third, to rejoice when one was destroyed by the other.

I must be permitted to add, that those who knew Mr. Van Vechten alleged, and I believe with truth, that with all his great qualities, he was, notwithstanding, a cunning man, and was occasionally addicted to intrigue; and that he frequently attempted, by plotting, to circumvent rivals among his own political friends, as well as to thwart the views of his opponents.

Mr. Van Buren, of course, felt a deep interest in the choice of the council of appointment. His object would not be accomplished if men were placed in the council, a majority of whom were decidedly hostile to the governor. In that case the public would impute all the errors which might be committed, to the council, and judge of the executive by his speeches. Nor was he willing that Mr. Clinton should have a council which would accord with him in all his views, and be subservient to his wishes. It would, he thought, be more desirable to form a council which the governor could not control, but for whose acts the public would hold him responsible. In other words, Mr. Van Buren wished to create a council which should be nominally Clintonian, but which, at the same time, should be really hostile to the governor. Partly by management, and partly by accident, a council, of the character last described, was actually chosen.

Before the legislature met, it was intimated to me that it was desired that I should be a member of the council; but I peremptorily declined. I knew enough then of the political history of the state, to be convinced that the station was one which generally incurred much odium. I felt that I was ignorant of the real standing and character of most of the active political men in the state, and that, before attempting to occupy a position which would call attention to me, it would be desirable that I should acquire some character for usefulness as a legislator. But soon after I arrived in Albany, I found that there was an almost universal inclination, on the part of the governor's friends, that I should be in the council; but from an interview between Wm. C. Bouck, a member of the assembly from Schoharie, and myself, which I perceived was caused by Mr. Van Buren, I became satisfied that he preferred some other senator from the middle district; although Mr. Bouck did not even mention his name. In a short time, however, I ascertained that I could not refuse without offending many of my best friends, and I therefore consented.

The members of the council were, at that time, designated by a caucus of the republican members of assembly from each senatorial district. In the southern district, which was represented in the assembly almost wholly by Bucktails, Peter R. Livingston was nominated, I believe, without opposition; and in the eastern, Henry Yates, who was the only *professed* republican Clintonian from that district, was selected.

In the western district a large majority of the republican members were sincere friends of the governor, and desired that a council of appointment should be formed who would pursue all reasonable measures to sustain him; but, unfortunately, the two most prominent Clintonian senators from that district, Mr. Bates and Mr. Hart, were

candidates for the nomination. Both were ardent, and both were extremely imprudent, and reckless of the consequences which might result to the state administration from their collisions. I speak from conjecture, but I do not doubt the fact, that the friends and agents of Mr. Van Buren did what they could to widen the breach, and heighten the contest between Bates and Hart.

There were a few Bucktail members of assembly from the western district. These gentlemen, in the caucus held by the members from that district, supported Henry Seymour, and some, if not all, the friends of Bates, out of mere resentment against Hart and the Utica Bank, which, it was said, had been busy in this affair, voted for Seymour, and he was nominated. Messrs. Livingston, Yates, Seymour, and myself, were the next day chosen, in pursuance of the decrees of these sub-caucussers.\*

I have reason to believe that it had been given out, by some of the Bucktail leaders, that, in case Mr. Clinton should not be the next republican candidate, Judge Yates would be selected, and that those outgivings had been communicated to Mr. Henry Yates, who was a brother of the judge. It is proper to add, however, that I do not know the fact, and state it as conjecture merely. Be that as it may, subsequent events proved that Mr. Yates became opposed to Mr. Clinton. Before I go further, it is my duty to say, and I take pleasure in saying it, that Henry Yates was strictly an honest and honorable man. In all my communications with him I never found him guilty of the least evasion or prevarication. But, nevertheless, his mind may have been biased when he himself was not aware of it.

\* It was stated to me by the late Judge W. P. Van Ness, that the moment the council was chosen, Mr. Van Buren wrote to his friend in Columbia county, the following brief letter:—

“All is safe. Seymour! Seymour! Seymour!”

Here, then, was a council organized, consisting of Mr. Livingston, who was open and virulent in his opposition; of Mr. Seymour, who was equally resolved in his hostility, but wary, smooth, and apparently moderate in his action; and Mr. Yates, a professed Clintonian, but, undoubtedly, considerably influenced by his brother, the judge, now openly in the opposition; Mr. Henry Yates unreservedly declaring himself opposed to Judge Spencer, or what he called the dictation of Mr. Spencer.

Immediately after the council was chosen and before its first meeting, Mr. Yates stated to me that John Van Ness Yates, who was his distant relative, had been unjustly removed through the influence of Judge Spencer, from the office of recorder of Albany; that he wished forthwith to correct the error by the removal of Mr. Parker, and re-appointment of Mr. Yates; that Mr. Livingston would vote with him on that question, but Mr. Seymour would not, as he had committed himself to vote against all removals except for official misconduct. To this I replied, that although the office was of little importance, and although I was satisfied that the removal of the late incumbent was wrong, the case was peculiar, and I was not prepared to act in accordance with his request—that the agency Judge Spencer had had in the removal of Mr. Yates, and the connection existing between him and Mr. Parker, would render the removal of the latter a declaration of war against the Judge, which considering the very great obligations he had conferred on Mr. Clinton and his friends, by his efficient and successful efforts in procuring his nomination, would be an act not only unjust, but would stamp with the vilest ingratitude, the governor and all those who professed to be his friends. This reply was not at all satisfactory to Mr. Yates, and in various conversations with me he finally intimated that unless this outrage

was repaired, he could not lend his aid in the votes he should give in the council to the friends of Mr. Clinton. Eventually I assured Mr. Y. that although I could not and would not vote for the removal of Parker, before the council was dissolved, I would aid him with my vote in making some suitable provision for his friend; and with this assurance he was satisfied. I mention this little incident, to show by what means the current of the state patronage, while it was distributed by the council of appointment, was directed or changed. I was wrong. I should have declined any negotiation, and disclaimed all responsibility in respect to the doings of a majority of the council. That course would have relieved me from much anxiety and vexation, and in the end would have been better for Mr. Clinton.

I had been but a few days in the senate, before I perceived that although there was a nominal majority in that body favorable to the governor, the real majority was against him, and I could not but foresee that the consequence would be, to the executive, seriously embarrassing. I communicated my views to the governor, which he affected to treat with great indifference, and urged that I was mistaken in the canvass I had made. I further stated to him that the preponderance of talent among the republicans was decidedly unfavorable to him, and that he had not a single friend there who was suitable for the leader of a party. Shortly afterwards I had reason to suspect that jealousies were taking root between Mr. Van Buren and Col. Young; and I thought that circumstance afforded a favorable opportunity to make an effort to gain one of them; and as Col. Young was identified with the governor in the canal policy, and as canal commissioner, was his colleague, it struck me that he would be the most natural ally. Senator Hart was, as he assured me, in habits of familiar intercourse with



Col. Y., and I requested him to ascertain whether a good and friendly communication could not be established between the governor and Mr. Young. From Mr. Hart I soon learned that Col. Young did not object to act with Mr. Clinton if he could be satisfied that the governor would pursue a republican course; and if some trifling personal difficulties could be explained and removed. I forthwith called on Mr. Clinton and communicated to him these facts, but I found him indifferent, and disinclined to aid in carrying into effect the project I had so much at heart, and which I deemed highly important.

- From that moment my confidence in Gov. Clinton, as a good practical politician, in a popular government, was gone. I have never regained it. However noble and magnificent were his ends, he failed in providing the means for their accomplishment.

Not many days passed before any difficulties which might have existed between Mr. Van Buren and Mr. Young, were removed, and a fixed, well compacted and organized majority against the governor was formed in the senate. In the progress of the session, proceedings were had, which exhibited that majority in such a manner as to remove all doubt. In proof of this position, I give the following case:

In the western district, at the election in April, 1817, two senators were to be chosen; one to supply the place of a deceased senator from that district, who in 1816 died, one year before the expiration of his term, and the other for the term of four years. Doct. Jediah Prendergast and Isaac Wilson were nominated, and at the time of the nomination it was understood that Prendergast was the candidate for the four years term and Wilson for the one year. By law, in a case like this, the candidate who had the greatest number of votes was de-

clared elected for the longest term. A dispute arose between those candidates, and the question was, which of them was entitled to a seat for the four years. The following were the undisputed facts as reported by Mr. Frey, chairman of the committee of elections.

There were given at the election, for Isaac Wilson fifteen thousand and nine votes. For Jediah Prendergast, fourteen thousand nine hundred and eighty-five, and for *Jedediah* Prendergast, ninety-one, and *Jed.* Prendergast ten votes. The canvassers delivered the certificate for four years, to Mr. Wilson. It was proved by the oath of forty-two electors, to the satisfaction of the committee, that they had voted for *Jedediah* Prendergast, intending *Jediah* Prendergast. These forty-two votes, independent of the remaining fifty-nine, would have given Doct. Prendergast a majority of eighteen over Wilson. The committee further reported that it was not alleged by Mr. Wilson that there was any man in the district who bore the name of Jedediah Prendergast. The committee therefore reported that Mr. Prendergast was entitled to a seat for the term of four years. It would seem to me that no man capable in the plainest cases of distinguishing between right and wrong, could differ with the committee in the conclusions to which they arrived. But there was one fact in the case which the committee did not report, and that was, that Prendergast was a supporter, and Wilson, by this time had become an opponent, of the governor.

Col. Young, whom I have said, and again repeat, is an honest man, (but what mind is proof against the bias created by political prejudice and interest,) gravely made an argument in favor of the right of Wilson to the seat for four years. He produced the *bible*, and in it found both the names of Jedediah and Jediah, and thence inferred that he had sustained the position for which

he contended! It would have been more creditable to him and his friends to have *voted* without arguing. The four years seat was assigned to Mr. Wilson, by a vote of thirteen to eleven.

As an act of justice to the minority, I give the names of those who voted:

For Wilson—Barnum, Cantine, Crosby, Dayton, Dittmis, Knox, Livingston, Ogden, Seymour, Skinner, Van Buren, Yates,\* Young,—thirteen.

For Prendergast—Bates, BOWNE, Frey, Hammond, Hascal, Lounsbury, Noyes, Ross, Swart, Tibbits, Van Vechten—eleven.

The two Prendergasts and Wilson did not vote. The absentees were Allen, Swift, Hart, Mallory and Bicknel. It will be seen, with the exception of Mr. Bowne, (an exception highly honorable to him,) that it was a complete party vote. From Mr. Van Buren and Col. Young, at any rate better things ought to have been anticipated. Doct. Prendergast from that day became and was a zealous Bucktail! I leave it to the philosophical inquirer into the action of the human mind to account for his conversion.

The proceedings of the council were, as may well be anticipated, when the materials of which it was composed are considered, bungling, awkward and inconsistent. In almost all cases my individual views were thwarted. Something was always proposed by one of the members with whom I acted; which though perhaps, not absolutely bad, was by no means so good in my judgment, as might have been done. I of course yielded, to prevent something worse. I do not recollect of but one prominent appointment which I proposed, which was made; and that was the appointment of C. D. Colden mayor of New-York. The members from the city

\* Which way Mr. Yates leaned may be learned from this vote.

had recommended Col. Paulding, and he was of course supported by Messrs. Livingston and Seymour. The governor was in favor of Sylvanus Miller. I first proposed Mr. Colden to Mr. Yates, who was generally inclined to cross the views of the governor, though he wished to avoid the appearance of opposition, or rather he declined (for he was incapable of deception,) placing himself in an attitude of direct hostility to the governor. The policy, or perhaps I ought to say feelings of Mr. Yates, placed Gov. Clinton in the precise condition which Mr. Van Buren desired. He was so situated as in the view of his friends and the public, to be held responsible for all the appointments, many of which were not his, but submitted to by him to avoid a worse course by the council. But I am wandering from my subject. I informed Mr. Yates that the Governor desired the appointment of Mr. Miller, upon which he readily committed himself in favor of Colden. I went immediately into the council and nominated Colden. As I anticipated, either Livingston or Seymour nominated Paulding, which reduced the governor to the necessity of deciding between the two. He of course voted for Colden, and he was appointed.

Gov. Clinton like Gov. Lewis, was extremely timid in relation to the appointment of federalists. Mr. Yates was also averse to the appointment of any individuals belonging to that class of politicians. I give one instance. I had accidentally become acquainted with John C. Hamilton, son of the celebrated General Hamilton, and the talented author of his biography now being published. I ascertained that the little office of commissioner of deeds would be agreeable to him, and proposed his appointment to that office, to the governor; as well in testimony of respect to the memory of one of the greatest men that ever lived in this country, as a mark of attention to a

young man of fair character and promising talents; and it was with some difficulty that I procured this petty appointment, because John C. Hamilton was supposed to be a federalist.

The old friends of the governor in New-York, who had been ejected from office because of their attachment to Clinton, such as P. C. Van Wyck, Garrit Gilbert and others, who claimed that provision should be made for them, were extremely pressing, in urging the removal of the bucktail incumbents to make place for them.

• For myself, I considered the New-York bucktails as having formed an organized opposition to the state administration, and as political opponents to the democratic party in the state, which I insisted was represented by Gov. Clinton as their chief; and according to the common law of party, as then established, I thought we had the right, and that it was our duty to make war on them, as a faction, who, like the Burr and Lewis faction, were opposed to the great republican party in the state. But I should have preferred some other appointments than those which were recommended by the governor. They consisted of a little handful of old friends, who, from some cause, it may be, without any fault of theirs, had become odious to the great mass of community, whether, consisting of federalists or democrats. I should have preferred to have taken now and then a federalist of influence and personal popularity, and to have christened him a democrat, and to have gone into the ranks of the bucktails and selected some of them, but precisely the men whom the leaders of the faction disliked, as was done in the case of Colden, who was at the time a bucktail member from the city. This policy did not accord either with the views of Mr. Clinton or Mr. Yates, who of course prevailed, and the old friends of Mr. Clinton were generally restored to office.

Mr. Josiah Ogden Hoffman, who had been a distinguished federalist, as appears from what I have before related, now claimed to be an ardent friend of Mr. Clinton, and he and his friends pressed hard upon the council for the removal of Richard Riker as recorder, and his appointment as the successor; but to this Mr. Yates positively refused his consent, and the application of course failed.

A combination of republicans in Rensselaer county, e ✓ headed by William L. Marcy, our late governor, then recorder of Troy, was formed, who acted in concert with Mr. Van Buren. An application, strongly urged, was made to the council from that county for the removal of such of those men as held office, and especially Mr. Marcy. These men did not come within the description of the New-York bucktails. They occupied the same political attitude as Van Buren, who as yet supported regular nominations, whether the persons nominated were for or against Mr. Clinton. I therefore refused to consent to the removal of Mr. Marcy, or any of his friends in like manner, as I had refused to consent to the removal of Mr. Van Buren from the office of attorney general. At the ensuing April election, however, the county convention, having, as I was informed, nominated Clintonian republicans, Mr. Marcy and his friends got up a bucktail set of candidates, and supported them at the polls of election in opposition to the regular republican ticket; by which means, I believe, federal members of assembly were returned from that county. At the June session of the council, therefore, in conformity with the principle of action I had adopted, I voted for the removal of Mr. Marcy and his other friends, and they were removed accordingly.

How inconsistent was the conduct of these men. The sole ground alleged for their opposition to Mr. Clinton was, that he was extending too much favor to, and there-

by strengthening the federal party; but here they opposed republican candidates when they must have known that the effect of that opposition would be to procure a federal representation from the county of Rensselaer. But this inconsistency was not confined to them. In several counties of the state,—as for instance in the county of Chenango, where General German was elected in opposition to a regular republican nomination, by uniting with the federalists,—the conduct of the Clintonian republicans was as inconsistent with their professions as that of the Rensselaer county bucktails. Indeed it cannot be denied that Mr. Clinton encouraged irregular nominations.

Before the adjournment of the council, it was agreed between Messrs. Yates, Livingston and Seymour, to remove Doct. Cooper from the office of secretary of state. I was apprised of it, and although I stated that I should vote against the measure, there were, I confess, two considerations which induced me to look upon it with indifference. The one was, the improper manner in which he came into the office, and the other, that it enabled me to redeem the pledge I had given to Mr. Yates to make some provision for J. V. N. Yates.

Mr. Livingston accordingly at the next meeting of the council, in the presence of the secretary, made a violent attack upon him, and upon the means by which his appointment was obtained, and offered a resolution for his removal, which was carried by the votes of Messrs. Livingston, Yates and Seymour. I voted against it and the governor entered his protest against the measure; repelling in a spirited manner, the animadversions made by Mr. Livingston on the conduct of Gov. Tayler. After the removal of Mr. Cooper, upon my nomination, John Van Ness Yates was appointed. In many respects Mr. Yates was peculiarly fitted for this office. He was a man of fine literary taste, of ready resources of mind, possessing

brilliant if not profound talents, and capable of doing much within the shortest possible period of time.\*

During this session, Mr. Edwards of New-York, brought a bill into the assembly for calling a state convention for considering such parts of the constitution as relate to the appointment of officers. His object was to abolish the council of appointment, and provide for the appointment of officers in some other way. I advised the governor and his friends to support this project; and to enlarge the powers of the convention in such manner that they should also have the right to consider the propriety of altering and extending the right of suffrage. All men had become disgusted with the appointing power, under the old constitution, and so universal was the opinion that a change ought to be made, that I was satisfied that the council of appointment could not much longer form a part of our governmental machinery. The right of suffrage, too, was more restricted in this state than in any other of the northern or middle states; and I was satisfied that public opinion, in a state so highly democratic, would not much longer endure the restriction. I told the governor that the project would eventually succeed, and that he had better seize upon it then, while in one branch of the legislature at least, we had the power of controlling and keeping within due bounds action upon the question; but neither he nor his friends would listen to me. The scheme was started by a New-York Bucktail, and that itself seemed good cause of opposition to it. Indeed, Gov. Clinton and his friends vainly hoping that they should be able to control the council of appointment, seemed anxious for retaining it. The proposition of Mr. Edwards,

\* This council cannot be charged, when compared with other councils, with illiberality towards the Bucktail party. They appointed many of their open and avowed opponents, among whom none was more so than General Root, and he was appointed district attorney for the county of Delaware. John Savage was also appointed district attorney of the county of Washington. *Note F.*



although supported by him with the most ardent and honest zeal, and by able and unanswerable arguments, was rejected in the assembly.

The term of service in the senate, of Mr. Ross and Mr. Cantine from the middle district, would expire during this year; and their successors were to be chosen at the annual election in April. There is no doubt but that at that time, a large majority of the electors of that district were Clintonians, but by adroit management, such arrangements were made as resulted in the election of one Clintonian and one Bucktail. Mr. Cantine was not a candidate for re-election, but Mr. Ross and his friends were extremely anxious that he should be again returned. It was conceded by all that one of the candidates should be taken from the county of Orange, where Mr. Ross resided, but there was a dispute whether the other candidates should be taken from the county of Otsego or the county of Greene. According to the population of the respective counties, and the representation each county had enjoyed in the senate, Otsego, in preference to Greene, was entitled to the member. The decision of this question was submitted to a caucus of the members of the legislature from the middle district. There would have been little difficulty in deciding this question, had it not been known that Moses Austin, an avowed Bucktail, had been nominated by the republicans of Greene, and that Arunah Metcalf, a very estimable man, but who was equally well known as a Clintonian, had been designated by the republicans of Otsego county. A majority of the members from the middle district were Clintonians, and yet a majority of those members in caucus decided, in effect, that Austin should be the senatorial candidate. This decision was produced in the following manner: A Mr. Strong of Orange county, had been proposed by some of his friends, as the successor of Mr. Ross; and although the members of assem-

bly from that county were decided Clintonians, they were from personal and local considerations very desirous, as I have before stated, that Mr. Ross should be re-elected; and they feared that in case the Orange county delegation supported the claims of Otsego; Columbia, Delaware and Greene, (Bucktail counties,) would advocate the election of Strong, and thus the expectations and wishes of Mr. Ross and his friends would probably be defeated.

Mr. Van Buren very adroitly availed himself of their fears; and eventually the members from Orange voted in favor of Greene, which caused the nomination and election of Mr. Ross and Mr. Austin. So that instead of two Clintonians from the middle district we had but one. Before the middle district convention adjourned, it was resolved to appoint a committee to draft an address to the electors of the district, on the subject of the approaching election. Mr. Van Buren was appointed chairman of that committee. Another person agreeing with him in political views, and myself, were of that committee. He drew an address, in which he reviewed the political contest between the two parties during the late war, and most soundly abused our old political opponents. The poor federalists, who were so far from being dangerous, that they had no idea of opposing our candidates, be they who they might, very justly might have complained of this treatment as illiberal, if not cruel. But on the part of Mr. Van Buren, the measure was politic and judicious. If the Clintonian republicans refused to sign the address, then it was evidence of what was charged against them,—a secret understanding with the federalists,—if they signed it, then the federalists might be told, that they had no more to expect from one class of the republicans than from another; for both had joined in the uncalled for denunciations against them. The address eventually was signed indiscriminately by all the republican members.

In the summer of 1817, Mr. Solomon Southwick, or rather Mr. Spencer Stafford, the owner, had transferred to Mr. Israel W. Clark, the Albany Register establishment.

Mr. Clark had formerly printed, at Cooperstown, a republican paper called "The Watch Tower." Though defective in education, and as a business man not exactly suited to this world, he was a man of great purity of principle and an excellent heart; and he possessed a much higher grade of talents than the public in general gave him the credit of possessing. He thought highly of Mr. Clinton, and was enthusiastic in the support of his projects of internal improvements. Shortly after he took possession of the Register, he wrote and published in that paper, a series of numbers, in which he sustained the canal policy with great ability. Major Noah who then edited the National Advocate, the leading Bucktail paper, attacked these numbers with great zeal; and such was the talent displayed by the author that the Major charged them to the pen of De Witt Clinton himself. I am thus particular, in order to do justice to a friend, not correctly appreciated by the public, whose memory I still cherish with cordial affection.

The Albany Argus, conducted by Judge Buel, was considered rather as the organ of Judge Spencer; while the Register, under the management of Clark, was considered, more especially as speaking the language of the governor. This, and the circumstance that Clark desired to obtain the state printing, and allowed himself to be flattered by Southwick, who at heart was seeking the prostration of Mr. Clinton, that the state patronage was within his reach, produced a collision between two leading journals which ought to have acted in cordial union.

Before the annual election in April, all reflecting men foresaw that a permanent separation would take place before the next election for governor between the republi-

cans who supported and those who were opposed to Mr. Clinton. The question which produced the greatest anxiety in the minds of politicians was, which party would retain the greatest number of democrats, or rather, (which perhaps would be more in accordance with the truth of the matter,) which party should retain the name of *the* republican party. The election nevertheless was attempted to be conducted in the usual way. The candidates were selected by county and district conventions. In several counties, however, one or the other section of the democratic party rebelled against the decrees of these conventions, as in the case of Rensselaer and Chenango counties; but symptoms of oppugnation were most frequently manifested by the Clintonians. The inclination of an immense majority of the federal party undoubtedly was, to act with those whom they deemed to be the real friends of the governor.

In the western district senatorial convention, Gamaliel H. Barstow, David E. Evans and Perry G. Childs, were nominated. They were selected because they were known to be friends of the governor. Some opposition on that account was made to them at the election. Mr. Childs in particular, who was personally unpopular in consequence of having been rather a grasping lawyer, was opposed by a respectable farmer by the name of Paine. He would undoubtedly have lost his election, had it not been known that Mr. Paine was in feeling with the Bucktail party, while it was believed Mr. Childs was a firm friend of the governor. We shall shortly see with what fidelity Mr. Childs, as well as Mr. Evans, (personally a very estimable man,) carried into effect the known wishes of those who elected them.

The legislature adjourned on the 23d of April. The result of the elections generally were favorable to the governor.

In the city of New-York, it is true, the Bucktail assembly ticket succeeded by a majority of more than a thousand, but in the state, a majority of the republican members of assembly chosen were decided friends of the governor. Although Mr. Austin was elected from the middle district, it was very evident a majority of the electors in the state were in favor of Mr. Clinton, and the eastern and western districts had elected senators with express reference to that question.

The following are the names of the senators elected:— from the southern district, Darius Crosby; middle, William Ross and Moses Austin; eastern, George Rosecrants and Levi Adams; western, Perry G. Childs, Gamaliel H. Barstow and David E. Evans.

Before concluding this chapter, I must be permitted to indulge in a few reflections in relation to the political position of Mr. Clinton; and upon the reasons why many of the republicans at this early period, manifested symptoms of opposition to his administration.

Mr. Clinton had been nominated in 1817, by a majority of the republican party represented in convention, upon the solemn assurance of Judge Spencer and his other friends, that if nominated and elected, he would rigidly pursue a republican course, and discontinue all connection between himself and the federalists, if such connection had existed. An adherence to a republican course, it was, I presume, well understood, would render it his duty to distribute the state patronage so far as he had an agency in its distribution, as his predecessor had done, among the members of the republican party only. The federalists thought they were entitled to a portion of the patronage, and under the administration of Mr. Clinton they no doubt expected to enjoy it.

Mr. Clinton, when he commenced his administration, professed his determination to support the republican par-

ty, but he affected to believe, that the federalists did not exist as a party. He alleged that there was no difference of opinion in relation to the measures, and of course there could not be two parties. He was cold and distant in his deportment towards Mr. Van Buren, Mr. Young, Mr. Skinner, and other leading republicans who had opposed his nomination; and when he spoke of them his language was calculated to produce unfavorable impressions in relation to their political views and motives; while he was known to be in habits of frequent and confidential communication with Judge Van Ness, Judge Platt and other leading federalists. Still he was extremely unwilling to appoint federalists to office. Judge Van Ness used to apologize to his friends who solicited appointments, in the best manner he could; and was known to have entreated them to wait for a short time, and "*until Mr. Clinton should get fairly into the saddle.*"

Was it unreasonable to expect that this conduct of the governor and the declarations made by leading federalists of the tenor of what I have quoted, would not excite the jealousy of the republicans, and alarm those of them who had but recently emerged from the tremendous contest with that party during the late war?

But in truth the federalists as a party, were neither disbanded nor annihilated. It is true, the glitter and blaze of their watch fires were not visible, but they were smothered,—not extinguished. The "*embers*" remained and there were not wanting many, who like Mr. Coleman, were ready to fan them into a flame. It was, therefore, a vain attempt of Mr. Clinton, when he sought to acquire and retain the confidence of both parties. He should either have adhered strictly to the usages and discipline of the republican party, or he should have openly or publicly declared that he disclaimed all connection with any party and that his selections to office should be made

from among the most talented and worthy, irrespective of the political party of which they might have been members. The latter course he could not take without violating the pledges made in his name by Judge Spencer, and the former was so directly at war with his feelings that had he attempted it, he was incapable of carrying it out in good faith.

If Mr. Clinton had any general system of political action, it was one tending to a merger or amalgamation of all parties into one, or to erect out of the two existing parties a third party, the object of which should be his individual support. The idea of an amalgamation of parties in a free state, is chimerical, and the notion that three great parties can, for any considerable time exist, is ridiculous.

## CHAPTER XXIV.

FROM MAY 1, 1818, TO MAY 1, 1819

Few events of political importance occurred during the summer of this year.

There can be little doubt but that the leaders of the party, of which Mr. Van Buren was the head, determined, before the meeting of the legislature now chosen, to draw the line distinctly between the supporters and opponents of the governor. The difficulty consisted in doing this in such a way as to produce a conviction that the governor's friends were a minority, and a dissenting section from *the* republican party.

Partly by accident, and partly by good management on the part of the Van Buren party, and bad management of Mr. Clinton and his friends, this object was effected, or claimed to have been effected.

William Thompson, a native of Saratoga county, had established himself in the practice of law in the county of Seneca. He was a young man of respectable talents, and had once or twice represented that county in the assembly; and, while a member, some personal difficulty had occurred between him and Lieut. Gov. Taylor. A sharp contest had also happened between him and Mr. Elisha Williams of Hudson, in relation to the public buildings in Seneca county—Thompson contending that they ought to be located at Ovid, and Williams, that Waterloo, where he was largely interested, ought to be their site. Mr. Thompson was again, in April, 1818, elected to the assembly from Seneca. He was a man of warm passions, and, from the circumstances I have mentioned, had acquired strong prejudices against several persons of standing and influence



in the central part of the state, and among them, Gov. Clinton came in for a share of his dislike. He was readily fixed upon as the candidate of the Van Buren party for speaker, because he was a western man; and on that account, as well as on account of the interest which several members, who lived in the same district of country with him, felt in favor of locating the court-house at Ovid, it was supposed some members would vote, in caucus, for him, who would not vote for Mr. Sharp, or other distinguished Bucktails resident in the southern part of the state. Mr. Thompson was undoubtedly informed of this, probably by his old acquaintance and friend, Col. Young, before he left home; and measures were taken to procure the attendance in Albany, on the evening before the session, of every one who it was believed, or hoped, would, in caucus, vote for Thompson.

The day appointed by law for the meeting of the legislature, was the 5th of January. The arrangement for the nomination of Mr. Thompson for speaker, was kept a profound secret from the Clintonian republicans; and an impression prevailed among them that John Van Ness Yates, who had been elected to the assembly from Albany, a man supposed to be rather unsettled as to which party he would attach himself, would be the speaker.

Gov. Clinton and Judge Spencer desired for speaker a more decided man than Mr. Yates; but presuming upon their influence with the members from the country, had taken no measures to fix public sentiment upon any one, until the day before the legislature were to meet, when they determined upon Gen. German. I cannot but consider this determination as extremely injudicious. Mr. German himself, from his native good sense, at first disapproved of it. It was a long time since he had been a member of the assembly. He knew that prejudices existed against him among many even of Mr. Clinton's best

friends. He wished, he said, to take his place as a floor member of the house, and he hoped, in the course of the session, to regain the confidence of his old friends. But this did not satisfy the governor. Possibly some of the federal members who were in town, may have urged that German ought to be the speaker. They, no doubt, wished to widen the breach between the Clintonian and Van Buren republicans. What could hasten that breach more effectually than the support of German for speaker? He had, while in congress, opposed the declaration of war, and some of the war measures. He had signed the address against the election of Tompkins, in 1813, and he, at that moment, owed his election to the federalists, having been chosen in opposition to a regular democratic nomination. If, then, it was desirable that Mr. Clinton should retain in his support a majority of the republicans, nothing could have been more mal-apropos than the support of Mr. German. But, if it was unwise in Mr. Clinton and Judge Spencer, to determine on him as a candidate, it was still more inexcusable to have brought him forward without consultation, and without previous arrangements with their friends in the country. Objectionable as Gen. German was, there can be very little doubt, if proper measures had been taken a few weeks before the meeting of the legislature, a majority of the republicans might have been obtained who would have supported him in caucus. But not the slightest effort was made by the governor, or his friends at Albany, to prepare the minds of their friends in the country for such a measure. On the contrary, they were wholly ignorant of the project, until they arrived in Albany.

Perhaps it may be thought that I attach too much importance to this transaction, but I am sure I do not. If names and forms, on any occasion, are things, they emphatically were so at that time. I aver it as my delibe-

rate opinion, that the error committed by the Clintonian republicans, in respect to the support of Mr. German on the evening of the 4th, and on the fifth day of January, was the cause of their prostration and ruin as a party.

At the caucus, on the evening before the day appointed for the meeting of the legislature, there were seventy-five republican members present. On balloting for speaker, Thompson received forty-two votes, and German thirty-three. As I have before remarked, all the Bucktail members were there, while from ten to fifteen Clintonians had not arrived. After the result of the balloting was announced, the friends of German refused to vote in favor of concurring with the majority; and the next day also, when the house convened, they refused to support him. In this, in my judgment, they were clearly in the wrong. It is useless to allege that all their friends had not arrived. *That* they knew before they went into caucus. When they consented to a caucus nomination they were pledged to support that nomination, and it was a violation of plighted faith and honor to refuse to do so. It was the very predicament in which their opponents desired to place them. The actual result was a far greater gratification to Van Buren and his friends than if Thompson had been elected.

When the assembly met, on the morning of the 5th of January, upon balloting for speaker, no one had a majority of all the votes. The candidates were German, Thompson, and Duer of Albany. On the first ballot German received more votes than either of the other two candidates. The house, after balloting four times, with nearly the same result, adjourned to the next day. On the morning of the 6th, another ballot was taken, the result of which was as follows:—German, fifty-five; Thompson, thirty-eight; Duer, twenty.

No one having a majority of all the votes, Gen. Root offered a resolution that William Thompson be appointed speaker of that house. The following members voted in favor of this resolution:—Beebe, Blakely, Clark, Cleland, Conklin, Crolius, Deyo, Eldred, Eells, Fosdick, Foster, Frost, Gale, Groot, J. Guion, Gurnee, Hatfield, E. Hill, N. P. Hill, Howell, Howes, Humphrey, Hunter, Irving, Litchfield, McCall, Morgan, Nichols, Osborn, Patterson, Reynolds, Romaine, Root, Sharp, Spencer, Ulshoeffer, Watkins, Weed, A. Wells, Williams and Youngs—forty-one.

The whole number of votes given for Mr. Thompson being but forty-one, and the residue of the members present voting in the negative, the resolution was rejected.

A motion was then made, that William A. Duer be declared speaker, and the following members voted in favor of this resolution:—Barker, Beebe, Beadle, Carman, Davis, Finch, Frost, H. Guyon, Houghtaling, Huntington, Ketcham, King, Kissam, Lapham, Litchfield, Livingston, Oakley, Platt, Requa, Root, Simmons, Swart, J. Thompson, Tomlison, Van Buren, Van Loan, Van Rensselaer, Waldron, S. Warren, A. Wells and Williams—thirty-one.

All the other members voting in the negative this resolution was lost.

After the rejection of these resolutions, one was offered for the appointment of Obadiah German, and it was adopted, sixty-seven members voting in the affirmative, and forty-eight in the negative. On this question Mr. Duer and Mr. John A. King, of Queens county, voted in the negative.

The refusal of the Clintonian members of the legislature to adhere to the determination of a republican legislative caucus, and the eventual support, in connection with the federalists, of a man holding such a political standing as Gen. German at that time held, excited alarm among the republicans throughout the state. Was there not good

cause for that alarm? Probably ninety-nine out of a hundred, of Mr. Clinton's republican friends, earnestly wished to keep the democratic party, as a party, together. Was there any way of effecting that object, except by the enforcement of the usage, that on questions about the selections for office, the minority should yield to the majority? Here was a flagrant violation of that rule, at the seat of government, in favor of a man, who, to his political sins for six years past, had added yet another, by obtaining a seat in the assembly by federal votes, against a candidate nominated by a regular republican county convention.

The governor, in his speech, presented a very able view of the condition and prospects of the state. He again reviewed the canal policy, and reminded the legislature, that by the act of April 15, 1817, the canal commissioners were merely authorized to contract for making canals between the Mohawk and Seneca rivers, and between Lake Champlain and the river Hudson at Fort Edward; and he forcibly and strongly recommended authorizing, by law, the commissioners to open the entire line of canal navigation from Lake Erie to the tide waters of the Hudson, and from Fort Edward to the head of sloop navigation on the North river. He recommended several other important matters in relation to other great interests of the state.

After reading this, and other of the annual messages of Gov. Clinton, so unobjectionable, judicious and patriotic are his views, that one, at this period, will be at loss to account for the reason why any honest and upright man, who felt a due regard to the interest and honor of the state, could find it in his heart to oppose him.

The term of service of Rufus King, in the United States senate, was to expire on the 4th of March of this year, and it was the duty of the present legislature to appoint a successor. But, before their meeting, it had been

industriously circulated among the republican Clintonians, by the opponents of the governor, that he was in favor of the re-election of Mr. King, and that he was induced to take this course with a view to conciliate the federalists. Nothing could be more untrue than this allegation. It was in vain that he denied it. The very men who circulated the report, at the same time stated, that the governor publicly disclaimed such intention, but they, notwithstanding, insisted that he was *secretly* in favor of the measure. How was it possible to disprove a charge made and sustained in this manner? If Mr. Clinton, in his conversation about an United States senator, spoke against the re-election of Mr. King, it was precisely the course of conduct which his opponents had indicated.

On the other hand, many leading and bigoted federalists ascertained what were the real feelings of Mr. Clinton towards Mr. King, and from that moment they declared war against him. Hence, the conduct and votes of Mr. Duer and Mr. John A. King in relation to the election of Gen. German as speaker, who, when the final question was taken, refused to vote for him. Hence, Field Marshal Coleman, in his paper, after the election, in 1820, declared, that, until shortly before the election, he was not only opposed to Clinton, but even preferred Tompkins to him.\* But it is not less curious than true, that while Mr. Clinton was losing friends among the federalists, because, as they charged, and probably truly, that he was personally hostile to Mr. King, he was losing many of his republican friends, because the Bucktails charged him with a friendship and preference for the same gentleman.

The federalists in the legislature, led by Mr. Van Vechten in the senate, and Mr. Duer and Mr. Oakley in the assembly, perceiving that the members claiming to be

\* See Evening Post, May, 1820.

democratic would disagree in the choice of senator, determined to support Mr. King. I am, however, aware, and I ought to have mentioned, that, by this time, two parties had sprung up among the federalists. A minority, led by Mr. Duer in the assembly, and by Mr. Coleman and the Coodies, in New-York, were determined to make war on the governor, while a large majority, at the head of whom stood Mr. Oakley, in the legislature, and judges Van Ness and Platt, out of it, seemed equally determined to amalgamate with the Clintonian party, and support Mr. Clinton's administration. Why, then, did the latter class, on the question of speaker, and in the election of a senator, take a course so embarrassing to the governor and his friends? Why did they not pursue that line of conduct best calculated to secure to him the support of the majority of the republican party? It is often difficult, and sometimes impossible, to discern the real motives of politicians.

Notwithstanding the dissensions which had occurred in the choice of a speaker, and the violation, on the part of the Clintonians, of the obligations they incurred when they consented to go into a caucus, it was determined to call a meeting of all the republican members of the legislature for the purpose of nominating a senator. The Clintonian members of the senate had had no agency in the proceedings relative to the speaker; and several of them, particularly Doct. Barstow of Tioga, Mr. Adams of Lewis, and myself, were determined not to permit a permanent separation of the republican party, if, by any means, it could be avoided. A meeting was therefore called, in the senate chamber, to nominate a senator, and due notice for that purpose given. The Clintonians had fixed upon John C. Spencer, a member of the United States house of representatives, for their candidate, (and, in justice to him, I ought to say, this was entirely without

his knowledge,) while it was well understood that the Bucktail candidate was Col. Young. We did not know what the result might be, but were determined to support any gentleman who should be nominated.

The Bucktail members of the legislature soon ascertained, with certainty, their own strength; and there is every reason to believe that they became well satisfied that a majority of the republicans in the two houses were for Mr. Spencer. I say this, because there was good reason to believe, from their conduct in the caucus which was held, that they had determined before they came there, to break up the meeting without any nomination. The evidence evinced by their conduct at the caucus, of this determination, is strengthened by the fact that neither Mr. Van Buren nor Col. Young attended. The absence of Mr. Van Buren might be accounted for by the extreme illness of his wife, but Col. Young had no such excuse. ✓

After the meeting was organized, some gentleman, opposed to the governor, addressed the meeting by animadverting with great severity on his character and conduct, and concluded by reproaching the Clintonians for not adhering to the caucus nomination of speaker. Among others, Gen. German replied, and defended the political character of the governor, and the conduct of his friends. He was followed by a violent personal attack by Mr. Peter R. Livingston. It appeared to be his object to induce a personal quarrel between himself and Mr. German. Gen. German was neither slow to answer, nor backward in retorting personal abuse. This kind of altercation could not be endured by a large majority of the meeting, and it finally was dissolved without even an attempt to transact any business, on the motion of Mr. John T. Irving, a member from New-York. I own I was glad when the meeting broke up, and, I believe, I seconded the motion of Mr. Irving; but I was wrong. It afterwards, as I



think, pretty clearly appeared that the Clintonians were in the majority. They, therefore, should have refused to adjourn. They should have insisted on making a nomination, and if their opponents refused to support it, then they might, with great plausibility, have denounced them as a faction.

This was the last time the Clintonians and Bucktails attempted to caucus together as political friends.

A few evenings afterwards the Clintonians held a meeting by themselves, and unanimously nominated John C. Spencer.

On the day fixed by law for the election of senator, no nomination could be made. The federalists voted for Mr. King, the Bucktails for Mr. Young, and the Clintonians for Mr. Spencer. In the assembly Mr. Spencer received fifty-four votes, Mr. Young forty-four, and Mr. King thirty-four. Some of the members, who, on the resolution, voted for Col. Young, when the resolution was lost, voted for Mr. King. The whole number of republican votes, in both houses, for Col. Young, were fifty-seven, while those given to Mr. Spencer were sixty-four; showing evidently, at that time, a republican majority in the legislature in favor of Mr. Clinton; but the preponderance of talent was decidedly with the Bucktails.

Ezekiel Bacon, late comptroller of the United States treasury, a Clintonian member from Oneida county, was a man of considerable talent, but the strength and vigor of his mind had been greatly impaired by a nervous disease. Gen. German, as I have somewhere before remarked, when he came into public life, was an uneducated man, but possessed, by nature, a strong and powerful intellect, which was now improved by long experience in legislation. These gentleman had to encounter and repel the attacks of S. B. Romaine, Ulshoeffer, J. T. Irving and Sharpe, together with the galling fire of Gen. Root. Mr.

Duer was gathering the materials for the party of "high minded federalists," and omitted no opportunity of assailing the character and administration of the governor. Oakley, at the head of the largest portion of federalists, assumed to take an independent course, and to maintain an armed neutrality, but it was well understood that he, and his party, intended eventually to identify themselves with the Clintonians. Doct. Barstow, of the senate, was shrewd and sagacious, but quite unable to cope with such giants as Van Buren and Young. Henry Yates, who, it will be remembered, held the casting vote in the council of 1818, no longer claimed to be a supporter of Mr. Clinton, but acted openly and decidedly with the Bucktails. If he was before, as I thought I had reason to suspect, inclined to identify himself with that party, the conduct of the Clintonians in the choice of a speaker, furnished him with a plausible excuse for effectuating his intention.

The Clintonian and Bucktail republicans were now known as two distinct parties; and the last mentioned party received an accession of strength, in the senate, which was not anticipated by the Clintonians. Not long after the meeting of the legislature, Mr. Childs and Mr. Evans began to manifest symptoms of dissatisfaction with the party which had elected them, and soon after the separation of which I have spoken, publicly took ground with the adverse party. In this, I think they were wrong; for, although I am not a believer in the doctrine of instructions, to the extent it is held in Virginia and some other states in the union, I do think, that if a man is elected by a political party, *because* he professes to be a member of that party, if, after his election, he changes his opinions, as it is possible he may conscientiously do, he ought, in such case, to give back the power which has been committed to him by his constituents, and afford them an opportunity to re-elect him, if they also have changed their

opinions; and if they have not changed them, to allow them the opportunity of choosing a representative who will carry into effect their wishes.

During the pending session of the legislature, with the exception of Messrs. Van Buren, Young and Skinner of the senate, nearly, if not all those who opposed themselves to Mr. Clinton, founded their opposition to him upon an avowed opposition to the system of internal improvements which he advocated. This attitude was taken by the representation from the southern district in the senate and assembly, and by Gen. Root and others in various other parts of the state. The National Advocate, the leading Bucktail paper in the state, had boldly staked the fate of the party on the trial of that issue. But, during this session, a change in this respect took place. Mr. Buel, under an assurance from the majority in the senate, that he should be retained as state printer, came out in the *Argus* against the governor, and that paper now became the official Van Buren paper. It was said, likewise, that a caucus was held, of the republican members opposed to Gov. Clinton, at which it was determined to support the projected internal improvements. Whether such a determination was formally made in caucus, I am unable to say; but it is certain, that a sudden and most important change, about this time, did take place in the action of the Bucktail party, with respect to the canal, and that that change was almost universal. Mr. Sharpe of the assembly, and two or three of the southern senators, were too stubborn to surrender immediately, and Gen. Root occasionally exercised his wit upon the projectors and supporters of the canals; but after this, *as a party*, they made no opposition to this great work. It is not improbable that some were induced to take this course from the consideration that, so long as they continued their opposition to the canal, the whole west would be against them. But it is

wrong to suspect a man of doing, from selfish and bad motives, a good act.

After the opposition to Mr. Clinton's views, in respect to internal improvements, was given up, there remained no measures about which the two sections of the republican party differed. Here then, were two parties, bitter and virulent against each other, who cordially agreed on all questions of principle, and measures affecting the interest of the state, and who mutually concurred in their support of the men who administered the general government. Might not Mr. Clinton, justly complain that while the measures proposed by him were approved, he was himself the object of a most bitter hostility? Did his opponents object to his integrity or capacity? No man pretended to question the purity of his private character, all admitted that he possessed talents of the highest order. In one respect, however, to use a legal phrase, Mr. Clinton was *estopped* from making such complaint. The same Mr. Clinton had assailed and finally prostrated Gov. Lewis on the same ground, and with the same weapons which were now used against himself. If the chalice which Mr. Van Buren now presented to him was poisoned, it was the same which Mr. Clinton had commended to Mr. Lewis.

There were two prominent grounds of attack on Gov. Clinton. The one was, that he claimed that he was *in himself the party*, that he challenged the admiration and almost adoration of his friends, and that the only decisive evidence of political merit among his supporters was personal devotion to him. It must be confessed that there were some grounds for this charge. Mr. Clinton from his boyhood, had been the child of power, and either directly or indirectly the distributor of patronage. At an early age he was secretary of Gov. George Clinton, and during the time he was such secretary, and after the political

revolution in 1801, when the elder Clinton was restored to the executive chair, what more efficient means had the applicants for office to reach the heart of the venerable governor than through the agency and influence of a favorite nephew? After George Clinton had left the state, and after the overthrow of Lewis, and until the year 1814, De Witt Clinton was looked up to as almost the sovereign dispenser of governmental patronage. It would be strange if after such a training, the force of habit alone had not rendered him attached to adulation. Office seekers, and especially many of his old friends in New-York, soon perceived that eulogiums on De Witt Clinton furnished the most effectual means of defeating rivals for place and emolument. These praises which really sounded like adulation, were not suited to the taste of stern republicans and independent freemen.

The other ground of accusation was that the governor was improperly but secretly united with the old federal party. This charge was feebly sustained by proof, but from the manner in which it was made, I have before hinted it was difficult, if not impossible to disprove it; and when we consider that the federal party, at that time, declared themselves disbanded in the state and nation; that Mr. Clinton had as yet, appointed very few federalists to office,—probably fewer than Governor Tompkins would have done had he continued in the government, and less in proportion than Mr. Monroe in the administration of the general government had appointed, the Bucktails in the meantime, claiming to be the exclusive friends of his administration,—no good reason can now suggest itself to any mind why this charge should have injuriously affected Mr. Clinton. But in truth it did effect him most seriously. It drew from his support a large portion of those who are generally called the rank and file men. The charge was continually being made, and was not and could not be dis-

proved; and in their minds it was confirmed by the fact that a portion of the federalists affected to be, and probably really were, the friends and supporters of the governor.

On the other hand, the praises which were continually in the mouths of some of Mr. Clinton's partizans, and chaunted in many of the Clintonian newspapers, disgusted and detached from the support of the state administration many high minded and honorable, but perhaps rather too sensitive men. By the one ground of attack the governor was losing men of elevated and cultivated minds; by the other, the predilection and favor of that part of the republicans who looked too much at the surface of things, and formed their opinions rather from their suspicions and apprehensions of what *might* be, than on evidence of what *actually was*.

Amidst these collisions and violent struggles, which were little better than a mere contest for office and its emoluments between citizens, it affords me pleasure to state that the common school system received great improvement from a very able report made by Mr. Hawley, the superintendent, and from the able and zealous support with which his recommendations were sustained by Gen. Root in the assembly. So great was the confidence of all men in Mr. Hawley, (a confidence richly merited,) that during the discussion of the bill in the assembly, Mr. H. was required to take a seat with the members and occasionally make verbal explanations of the objects he had in view, in several of the details of his bill. The plan proposed by the bill which became a law, was very judicious, and with the alteration recommended for two successive years by Mr. Spencer, of the appointment of county superintendents, which was adopted by the legislature of 1841, constitutes substantially our present common school system; a system which is as nearly perfect as one can be, and at

the same time be in accordance with the genius of our civil institutions, and with the the existing state of society.

When the bill authorizing the commissioners to contract for the construction of the whole line of the canals, was before the senate, several of the Clintonian senators opposed it, or rather they preferred limiting the commissioners to particular sections, in order that a demonstration could be furnished of the practicability of the work, and of the actual expenses which would be required in order to complete it. We (for I was one of the number,) were friends of the work, but we believed that public confidence would be better preserved by this cautious course than by investing the commissioners at once, and before any demonstration had been afforded of the practicability of the scheme, with the power to incur a debt in the name of the state, of from five to ten millions of dollars. This was represented by the Albany Argus, and subsequently in a pamphlet written by B. F. Butler, Esq. as opposition to the canal; and further, that as they were pleased to call Mr. Barstow, Mr. Ross, and myself, confidential friends of Mr. Clinton, they attempted an inference that he himself was not at heart desirous of a speedy completion of the work.

The following extracts from the Albany Argus and Register of April, 1819, will enable the reader to arrive at a correct conclusion as respects these proceedings:

*From the Albany Argus.*

"THE CANAL LAW.—Taking the printed bill for our data, we made two material mistakes in our last, in noticing this subject. The law authorizes and empowers the commissioners to proceed to open a canal communication between the Seneca river and Lake Erie, between Utica and the Hudson river, and between Fort Edward and the navigable waters of the Hudson. It authorizes an annual

loan of six hundred thousand dollars *including* the loan authorized by a former law.

When the bill was under discussion in the senate, Mr. Hammond made a motion to strike out of the second section so much as authorizes the commencement of the eastern and western sections of the Erie Canal; which motion was negatived, twelve to sixteen, as follows:

For striking out—Messrs. Austin, Barnum, Barstow, Bowne, Dayton, Ditmis, Hammond, Livingston, Lounsbury, Noyes, Ross, Swart—twelve.

Against striking out—Messrs. Adams, Allen, Bates, Childs, Evans, Frey, Hart, Knox, Mallery, Rosekrants, Seymour, Skinner, Van Buren, Wilson, Yates, Young—sixteen.

Mr. Ross then moved to strike out so much as authorizes the commencement of the section between Seneca river and Lake Erie; which was also negatived—eighteen to nine.

Mr. Hammond then made a motion to strike out so much as authorizes the commencement of the section between Utica and the Hudson river; which was negatived, eleven to seventeen, as follows:

Ayes—Messrs. Allen, Adams, Austin, Barnum, Barstow, Bowne, Dayton, Frey, Hammond, Noyes, Swart—eleven.

Nays—Messrs. Bates, Childs, Ditmis, Evans, Hart, Knox, Livingston, Lounsbury, Mallery, Rosekrants, Ross, Seymour, Skinner, Van Buren, Wilson, Yates, Young—seventeen.

It will appear evident from this sketch of proceedings, that the canal question was neither advocated nor opposed in the senate on political grounds; and that some of Mr. Clinton's warmest political friends were the most hostile to the principles of the bill."



*From the Albany Register.*

“The bill mentioned in the article we have extracted from the Argus of Tuesday last, authorizes the canal commissioners to *contract* for the making of the *whole* line of the western canal.

When Mr. Hammond made the motion to strike out of the second section so much as authorizes the immediate commencement of the eastern and western sections of the Erie Canal, he stated that he was decidedly in favor of prosecuting the great work of connecting the waters of Lake Erie with the Hudson river by a canal; that he had not a shadow of doubt but that this great object would be ultimately accomplished; that he had full confidence in the estimates made by the canal commissioners, and that he was willing as one of the members of the legislature to furnish the means of accomplishing this splendid undertaking. But, he said, that if it was really intended to complete the work, it was important that public confidence in its practicability should be preserved. What was the best means of preserving that confidence? Canals, it is true, are common in Europe, but they are novel in America. The people wish a demonstration of the practicability and utility of the proposed canals. He was therefore of opinion that the completion of the whole projected system of internal improvements would be best ensured by confining our expenditures to the northern canal and middle section of the western canal, until the northern canal and middle section of the western should be completed and in actual operation. With this view he would cheerfully vote to authorize the commissioners to borrow any sum they should say was requisite to accomplish those objects.

If the northern canal and middle section of the western canal were completed, and the state in the receipt of the revenue produced by the tolls from those sections, could

any man of common sense entertain a doubt but that the eastern and western sections of the Erie canal would be finished? He thought not, and *therefore* made his motion to strike out.

Mr. Ross stated that he should vote for striking out, for similar reasons, at the same time declaring his determination to persevere until the whole system of internal improvement should be carried into effect and completed.

Our readers will perceive that the insinuation of opposition to the canal, contained in the concluding paragraph, which we have extracted from our neighbor Buel, is not only incorrect but manifestly unjust as respects Mr. Ross and Mr. Hammond, and such of their political friends as voted with them."

The governor, in his speech at the commencement of the session, was silent on the subject of a convention to amend the constitution; but Gen. Root, on the eighth of February, offered a resolution in the assembly for the call of a convention with unlimited powers to revise, alter, or modify the constitution.

This resolution called forth an extended and very able debate. Mr. Root of course supported it with his usual ability, and he was seconded by Mr. Bacon from Oneida county, in a very able argument. On the other hand, the federalists generally, together with Mr. Yates, who made a very handsome argument, opposed the resolution. As yet, therefore, there was no decisive indications that the call of a convention would present a question which would be decided upon party principles.

The resolution was eventually rejected.

During the summer of 1818, Joseph Ellicott had resigned his office of canal commissioner, and the governor had, in pursuance of the authority vested in him by law, as the vacancy happened in the recess of the legislature, appointed senator Hart in the place of Mr. Ellicott. This

appointment was exceedingly judicious; for Mr. Hart, whatever his defects as a legislator may have been, was a very correct business man. It became necessary for the legislature before the session expired, to pass upon this appointment, as the appointment of Hart would expire on the adjournment of the legislature.

Mr. Hart being naturally a man of ardent feelings, and having formerly entertained strong prejudices against the federal party, and withal being a very indiscreet man in his conversation, was personally disliked by the federal members of the legislature. The Bucktails had fixed upon Henry Seymour, who, although more bitter in his feelings towards the governor, than most of the other members of his party, was gentlemanly and courteous in his manners, and as a member of society, highly esteemed by gentlemen of all parties.

The moment I heard who the opponent of Mr. Hart was, I was alarmed, as I considered Hart's success very doubtful. I immediately mentioned my apprehensions to Gov. Clinton, who laughed at my fears. As I considered the appointment of great importance in a political point of view; I called upon Mr. Hart and advised him to make a thorough canvass of the members of both houses, and not permit the election to come on until he had obtained a pledge from a majority of the members that they would vote for him; and I told him, I thought he was in real danger of being beaten. He was so sure of his success that he was angry with me for my suspicion, as it implied an unfavorable opinion of his popularity. Finding that the two men most interested were indifferent, I gave myself no further trouble about the matter. The Bucktails set on foot, a quiet but very efficient system of electioneering, mainly, as I believe, with the federalists. I could detail some of their operations, but I apprehend it would fatigue, more than it would amuse the reader.

Mr. Seymour was nominated in the senate, and Mr. Hart in the assembly. Upon joint ballot Mr. Seymour was chosen by a majority of one vote. The aggregate number at that time in the two houses, of Clintonians and and federalists, exceeded ninety, while the Bucktails at most could not count to exceed fifty-seven. Of course fifteen or twenty Clintonians or federalists, must on joint ballot, have voted for Mr. Seymour.

The result of the contest between Seymour and Hart was more seriously unfortunate, and proved more fatally injurious to the Clintonian party than many of them at that time apprehended. It gave the Bucktails a majority in the board of acting commissioners, and thus threw into their hands a vast amount of patronage; a patronage which was felt along the whole line of country from Albany to Lakes Champlain and Erie. Thus the political influence which grew out of the great and splendid work which Mr. Clinton had labored so much and so successfully to cause to be undertaken by the state, was henceforth and until the day of his death used to annoy and to prostrate him.

Mr. Buel, in announcing this result in the Argus, said: "A majority of the canal commissioners are now politically opposed to the governor, and *it will not be necessary for a person who wishes to obtain employment on the canal as agent, contractor, or otherwise, to avow himself a Clintonian.* Did Judge Buel, by this negative allegation, intend that an affirmative allegation was to be inferred; to wit, that in *future it would* be necessary for a person desiring to become a contractor, &c., to avow himself an anti-Clintonian? I hope not; and yet probably some who wished to become agents, &c., might have so understood him.

The appointment of Chief Justice Thompson secretary of the navy, produced another vacancy on the bench of

the supreme court. Judge Spencer was, of course, appointed chief justice, but the selection of a junior judge from the bar presented a question of great delicacy and difficulty. The federalists recommended, and pressed with great zeal, Samuel Jones, son of the late comptroller, a learned lawyer and eminent for his virtues as a citizen, who has since held the office of chancellor of the state, and is now chief justice of the superior court of the city of New-York.

On the other hand, John Woodworth, who had for several years been attorney general, and who was a zealous republican friend of the governor, was pressed upon the council as personally unexceptionable and as politically less objectionable than Jones. Mr. Van Buren was also mentioned as well qualified for the office; but I am not aware that, with his own consent, he was spoken of as a candidate for any appointment by that council. As between Mr. Woodworth and Mr. Jones, a question was presented which produced considerable discussion and excitement, in consequence of which the final action of the council was long delayed.

About this time a project was formed in relation to the supreme court, which, had it been adopted, would have removed the difficulty under which the council labored on this occasion.

From the great increase of the state, in commerce and population, and the consequent increase of litigation, the supreme court had already become overloaded with business. The calendar of term causes began to increase upon them; and as they were obliged to try in the respective counties, all the issues joined in the supreme court and some other courts, the increase of the number of counties, as well as the increase of litigation, added greatly to their labors when not holding a court in bank. Besides, their presence as members of the court of errors, and of the

council of revision, required their attendance at Albany during the session of the legislature. It was most evident that five men must sink under this accumulation of labor. Suitors began to complain of delays, while the judges were performing as much labor as mortal men could endure. More force, more *men*, were evidently necessary to do the work which, by law, was assigned to the supreme court. It was therefore proposed by one of the Clintonian members of the senate, that, besides filling the vacancy occasioned by the resignation of Judge Thompson, two more judges should be appointed; but that it should not be required that more than five judges should sit during term. It was suggested that two of the members of the court, while the others were sitting in bank, might be employed in holding circuits; and it was proposed that the three new judges should consist of Woodworth, Jones and Van Buren. I am not authorised to say that Mr. Van Buren would have accepted the appointment, but I have some reason to believe he would have done so. He appeared to be tired of the eternal political struggles to which he seemed doomed, and such, in truth, he told me was the fact. The probability is, that if at that moment the office of judge had been tendered to him, he would have gladly retired from political contests, and employed the great powers of his mind in the discharge of his official duties, and would have confined his ambition to the acquisition of distinction and fame as a jurist.

Had this scheme been adopted, (if one may be allowed to speculate on probabilities,) it is reasonable to conjecture, that the then existing judicial system would not have been broken up; that Mr. Clinton would have been sustained; and that probably Mr. Van Buren never would have been president of the United States. It must be confessed, that one object of the proposer of this plan, was to get Mr. Van Buren out of the legislature, and detach him

from the active management of the party of which he was the life and soul.

The project failed of obtaining the approbation of the governor and his friends; and, strange to say, the judges of the supreme court were, I was told, unanimously opposed to it. Why should they have been so? The plan, if adopted, would render their duties less onerous; their salaries would not have been diminished. The appointment of Mr. Jones would have increased the confidence in the court, of the great federal party; the appointment of Van Buren would have had the same effect on the Bucktail party—a party, which, after the resignation of Judge Thompson, could hardly be said to be represented in that important branch of the government; and the appointment of Woodworth would have satisfied the republican friends of the governor. Why, then, did the judges of the supreme court so promptly reject the proposed alteration?

Man loves power. The judges did not fail to see, that if you divide a given quantum of power between seven men, the quantity of power, held by each, will be less than when you divide the same quantum between five.

Mr. Woodworth was eventually appointed.

There is good reason to believe that the Bucktails settled on Gov. Tompkins, during this winter, for their candidate for governor, in 1820, in opposition to Mr. Clinton. He was, personally, more popular than any other man of any party. The old Tammany men, of the southern district, preferred him to any other candidate. Mr. Van Buren wished to unite the largest possible number of the old republican party in the state, against Mr. Clinton, and he believed that no name could be so effectual in rallying the old war party as that of Gov. Tompkins; while his flexibility of temper, and apparent frankness, he hoped, instead of repelling, would invite that portion of the federalists who had manifested hostile feelings towards Gov.

Clinton, to rally around Tompkins, and yield him their support. In all these respects, the selection of Governor Tompkins was extremely judicious. But there was one circumstance against him. From the books of the comptroller it appeared that he, to a very large amount, was a defaulter.

Gov. Tompkins, during the last war, had been, not only the agent and executive of the state, but he had been the agent of the general government. Immense sums of money had been received and paid out by him, for both governments. When the credit of the general government was low, he had, in some instances, on his personal responsibility, in connection with the credit he had in consequence of his official station as governor of the state, raised large sums of money, which had been expended in the service of the general government for the defence of the state. He had also, no doubt in good faith, paid out in the aggregate large sums of money belonging to the state, to officers of the state and national government, which moneys had not been accounted for, either to Gov. Tompkins, or the proper accounting officers of the state and national governments. Gov. Tompkins was not a methodical business man, and his accounts and vouchers were not in a condition to bear a rigid scrutiny. Under these circumstances, a bill was introduced into the legislature, and passed both houses, (*Session Laws of 1819, p. 286,*) requiring the comptroller to liquidate and settle the residue of the accounts of Daniel D. Tompkins, and, on such settlement, to allow him the same discount or premium on the amount of monies borrowed by him, on his personal responsibility, and expended in the public service, as were allowed to other individuals and bodies politic for their agency fees in such transactions; that the comptroller should charge the sum, so allowed, to the United States; and that, upon such final settlement, the



treasurer pay the late governor the balance, if any were his due.

The comptroller, by another section, was required to credit the governor with all payments made by him according to law, and to open an account with the persons to whom the governor had advanced the money, and require them to account to *the state* for its expenditure. This bill passed both houses without much opposition. Mr. Tibbits, in the senate, thought he discovered something wrong in it; but it finally passed that body nearly unanimously. Undoubtedly Mr. Van Buren, and his leading friends, considered the passage of this law of very great political importance. It is not probable that they, or even Gov. Tompkins, at that time, knew how his accounts would stand if they were correctly settled. This bill relieved them, in a great measure, from the embarrassing charge they apprehended against Gov. Tompkins as a defaulter. If, upon a fair settlement, upon the liberal terms contemplated by the act, Gov. Tompkins should be able to balance his account with the state, then the objection to him as a defaulter would no longer exist. If, according to the views of the accounting officer of the state, there would still remain a balance due from Gov. Tompkins, these disputed items might be claimed, and a difference of opinion, as to the construction of the act, might be *started*, which would prevent a final adjustment of the balance, either one way or the other, until after the election in April, 1820.

The annual election of senators and members of assembly was now approaching, and each party took the field with great spirit. The federalists, in counties where they had a clear majority, as in Columbia, Oneida, Albany, &c., supported candidates who had uniformly belonged to that party. In counties where they were in the minority they generally supported Clintonian candidates. The middle

district presented a singular state of things. By this time it was well ascertained, that a very great majority of the republicans of that district were opposed to Mr. Clinton. But the Clintonians and federalists united, constituted a majority, and even then but a small majority, over the adverse party.

The Bucktail party had nominated Charles E. Dudley of Albany, and John T. Moore of Delaware, and the Clintonians had nominated Elisha Jenkins of Albany, and Arunah Metcalf of Otsego. The candidates on both sides were, personally, men of good reputation and entirely unobjectionable. My reader will also bear in mind, that if any considerable portion of the federal or Clintonian strength should be diverted from the Clintonian ticket, it would ensure the success of their opponents. Under these circumstances Solomon Southwick, a self-nominated candidate, claimed the support of the old Clintonians of the district; and Abraham Van Vechten—the respectable and justly esteemed and venerable Abraham Van Vechten—allowed himself to be a candidate to draw off the votes of a few old federalists who would not vote for a democrat if a federal name was before them. Mr. Southwick challenged and obtained the support of the ultra Clintonians, and Mr. Van Vechten of the ultra federalists. Mr. Southwick, whose conduct never seemed to have been governed by any system or fixed rule of action, may have been induced to pursue this course from mere personal hostility to Judge Spencer and Mr. Jenkins, and perhaps from resentment to Mr. Clinton; but Mr. Van Vechten must have been governed by other motives. *He*, knowing, as he did, that he could not be elected, must have lent his name for the express purpose of securing the success of Messrs. Dudley and Moore, two candidates who challenged support on the ground that they were in favor of an eternal war upon federalists and federalism.

Eventually, Mr. Van Vechten received two thousand two hundred and twenty-six federal votes, and Mr. Southwick one thousand and fourteen Clintonian votes, which caused the election of Messrs. Dudley and Moore, over Messrs. Jenkins and Metcalf.

Before the adjournment of the legislature an address of the Clintonian members was drawn, signed and published. Although it was written for effect, shortly before an election, and must be presumed, on that account, to present the most favorable view of the history of the proceedings in the winter of 1819, as respects the Clintonians; yet I am quite sure the facts it contains are substantially correct; and I think it presents pretty clearly the points in difference between the two parties. The intention of the author, was to avoid any abuse of the adverse party, and all unnecessary eulogy on the governor.

Although this address, as originally drawn and finally published, met, I believe, with the cordial approbation of those who subscribed it, yet I was mortified to be informed that it was not sufficiently laudatory of Gov. Clinton to suit the taste of many of his New-York friends; among whom, I am sorry to say, were two young gentlemen of some talents as writers, then lately from New-Hampshire. The gentlemen, to whom I allude, were N. H. Carter, who had recently taken the editorial management of the Albany Register, and Charles G. Haines of the city of New-York.

If any one should take the trouble of reading the address, about which I have perhaps already said too much, he will naturally enquire why nothing was said in it about the election of speaker. The answer is, that nothing could be said in justification of the conduct of the Clintonian party on that occasion.

The republican members of the legislature, who were opposed to Gov. Clinton, also addressed the citizens of the state, setting forth the causes of their opposition. This document was, I have reason to believe, written by WILLIAM L. MARCY. It was drawn up with great ability, and like all his other writings, was a production clothed in a style highly finished and elegant. It was my intention to have republished this address also, with a view of showing the points of difference between the two parties as exhibited at the time by themselves, but I have been unable to find it.

The result of the election, in April, was a gain to the Bucktail party. There were, nevertheless, in the assembly, including the Clintonian federalists, a majority returned in favor of the governor.

In the senate, from the southern district, Peter R. Livingston and John Townsend were elected, in opposition to James Talmadge and Pierre Van Cortland, who were the Clintonian candidates. From the middle, Charles E. Dudley and John T. Moore. From the eastern, Benjamin Moers, Duncan McMartin and Thomas Frothingham; and from the western, Gideon Granger and Lyman Paine, in opposition to Philetus Swift and Nathaniel Garrow, the Bucktail candidates.

The first named four gentlemen were elected as opponents, and the last five as supporters of Mr. Clinton's administration.

## CHAPTER XXV.

FROM MAY 1, 1819, TO MAY 1, 1820.

BEFORE the council of appointment adjourned in April, 1819, they issued new general commissions of the peace to several counties of the state, and in the selections to office, seem to have been guided very much by political considerations. The new appointments were made almost exclusively from the friends of the governor, many of whom were federalists, and those left out of the commission were chiefly of that class of politicians called Buck-tails.

The removal of Richard Riker, recorder of New-York, produced considerable excitement. Although an old friend of the governor; yet from the time that Mr. Clinton's friend (Townsend) had refused to second his nomination to the office of judge of the supreme court in preference to that of Jonas Platt, he had been as bitter, as a man of his pliable and apparent courteous exterior could be, in his opposition to the Clintonians. Peter A. Jay, was the man whom the bar and the substantial citizens of New-York required should be made recorder. His high attainments as a lawyer, the purity of his morals, and his pre-eminent standing as a man of integrity and honor, obviously indicated him, as, aside from former political prejudices, the most suitable man for the office. The council, however, hesitated long before they consented to his appointment, solely and exclusively on the ground that he was a federalist; and, (what surely to an American patriot ought not to have constituted an objection,) that he was the son of the late Governor Jay. For my part, although my prejudices were as strong against the

federal party, as those of any man; yet I considered that whether by our own wrong, or in accordance with our duty, we had placed ourselves in a condition in which it was not only our interest, but duty, to select our officers from those who were most worthy, who were determined to support the re-election of the governor, irrespective of the political parties to which they had formerly belonged. Doct. Barstow, and several other republicans of the old school, entertained the same opinion, and therefore advised the appointment of Mr. Jay. He was appointed.

In July, the council again met. Although the removal of minor office-holding Bucktails and the appointment of Clintonians had been very general; yet Mr. Van Buren, who stood at the head of the opposition to the governor, and led on the attack, had been allowed to hold one of the most important, influential and at that time lucrative offices in the state, the office of attorney general, undisturbed. It was urged that this inconsistency in the conduct of the administration ought to be obviated; and after much and long hesitation the council removed him, and appointed Thomas J. Oakley in his place. Upon the principle I have just laid down, (whether it was correct or not, is another question,) there could be no reasonable objection to Mr. Oakley's appointment. He was an able lawyer, and in all respects admitted to be competent. Mr. Van Buren, according to the maxims which before had, and since have governed his political conduct, had no right to complain, and in fact, I believe, he did not; but an outcry was of course raised in the newspapers, on account of the removal of a republican from an important office, and the appointment of a federalist in his place. The appointment of Mr. Jay and Mr. Oakley, did, in fact, more effectually identify Mr. Clinton and his republican

friends with the federalists than any act which had before been done.

During this summer a controversy arose between the vice-president, Tompkins, and the comptroller, Archibald McIntyre, growing out of a difference of opinion in relation to the construction of the act for the settlement of the accounts of the former with the state, which was passed on the 13th April, 1819, in which both political parties ardently engaged, and which agitated the whole community, and increased in heat and bitterness until after the election in April, 1820.

I shall not attempt to give in detail the particulars of this controversy, but merely state the conclusions to which I have arrived, from my knowledge and participation in the controversy while it existed; and more especially from a careful re-examination, recently made, of the documents in relation to it. If I shall have run into errors, those errors may be readily corrected by the documents contained in the printed journals of the two houses of the legislature.

During the preparation for the late war with Great Britain, and during that war, the state and national governments had placed at the disposition of the late governor several millions of dollars, to be expended under his direction, and for which he was, of course, called on to account.

He was irregular and immethodical in business; not systematical in keeping his accounts; employed too many agents; mingled his own private funds with those of the public; was naturally careless about money, and sometimes profuse in his expenses. The novelty of a state of war, and the hurry and bustle incident to that state, increased the confusion in which his accounts were involved. No candid man ever charged him with intentional dishonesty in his pecuniary transactions.

The comptroller was one of the most amiable and excellent of men. A rigidly honest, strictly correct and able accountant, and assiduous and unremitting in his attention to his public duties.

Upon the final adjustment of the accounts of the vice-president, from the vouchers presented to the comptroller, though the precise state of the accounts was not ascertained, there was supposed, in 1816, to be a balance of one hundred and ten thousand or one hundred and twenty thousand dollars of the public money in the hands of the vice-president, for which he could not legally account. This deficiency was supposed to be, and I believe it to be, owing, not to an intentional appropriation by him of the money of the state to his own use, but to the casual loss of vouchers; to the payment of money, in many cases, when, in the hurry and bustle of the times, no vouchers at all were taken; to the infidelity and knavery of agents; and, perhaps, as he mingled his own money with that of the public, to his sometimes expending for domestic purposes more than his income, and thereby, unintentionally, using for private purposes the public funds.

With views somewhat similar, as I presume, to those I have suggested as my own, in the year 1818, the legislature, by resolution, referred the settlement of the vice-president's accounts to William A. Bayard, Cadwallader D. Colden and Robert Bogardus, who were directed to adjust them upon principles of equity, without regarding the technical rules by which the regular accounting officers of the state were governed. Mr. Bayard declined acting as a commissioner, but the vice-president submitted his claims to Messrs. Colden and Bogardus. These claims consisted of commissions on \$1,075,021.72 drawn and expended and accounted for to the state, and for risk and responsibility for officers and agents, to whom the



money had been confided, expenses, journeys, &c., at five per cent,..... \$53,751 98

To commissions on \$2,363,516.27, obtained from the United States, and upon personal loans and advances, expended and accounted for,..... \$118,175 80

To premium on discount of \$1,095,000.00 at twenty per cent, in stock, being the amount loaned on the vice-president's personal responsibility, and advanced and accounted for,..... \$277,506 00

These claims, together with the interest on the several items, amounted to upward of \$600,000 00

It does not appear that the vice-president expected or requested that the whole of these claims should be allowed him by the commissioners; on the contrary, they were presented to enable the commissioners to select out of them such claims as, in their judgment, were the most equitable, which would amount to a sum sufficient to enable the vice-president to balance his account with the state. As Mr. Bayard refused to act, the commissioners were incapable of making any decision which would be binding on the state. Messrs. Colden and Bogardus, however, made a report to the legislature, in 1819, in which they pronounced an eloquent eulogium on the vice-president, and recommended that a liberal allowance be made to him. In justice to the vice-president, and to the honor of the commissioners, it is proper to bear in mind, that they were politically opposed to Gov. Tompkins. The report of the commissioners, in 1819, was referred to a joint committee of the two houses, who unanimously arrived at the conclusion that a sufficient sum ought to be allowed the vice-president to enable him to balance his account with the state. The committee ascertained that the balance due from the late governor was about one hun-

dred and twenty thousand dollars. Believing that he had been a faithful officer; that the defalcation was owing to the extraordinary state of the times; to unintentional error and misfortune, rather than to intentional deviation from duty; and, as Mr. Tompkins held the second office in the nation, from delicacy towards him, the committee were unwilling to recommend the passage of an act which, on its face, would imply that he was a defaulter. They therefore selected an item, contained in his schedule, of about a million of dollars, consisting of current money which had been raised by Gov. Tompkins during the war, on the pledge of United States stock and treasury notes, and on his personal responsibility, for defraying the expenses of carrying on the war, on which to allow him a premium equal to that paid by the United States to their own agents for converting treasury notes, and their depreciated stocks, into current money. The premium was understood to be, as stated in a letter from Mr. Bacon, one of the joint committee, about twelve per cent. They probably selected that item because twelve per cent on a million of dollars would produce one hundred and twenty thousand dollars, supposed to be the precise balance due from the vice-president. The joint committee accordingly recommended, and the legislature passed, the law of the 13th April, 1819, as I have stated in the preceding chapter.

When the vice-president presented his claim, under this act, to the comptroller, he furnished him with certificates from Doct. Isaac Brunson, Prime, Ward & Sands, and other dealers in stock, showing that the difference in value between treasury notes and United States stock, and current money, in the year 1814, was about twenty-five per cent. This would have entitled the vice-president to the sum of two hundred and fifty thousand dollars, for a premium on the one million of dollars raised by him, and

therefore would, besides balancing his account, have authorized him to demand a payment from the state treasury of about one hundred and thirty thousand dollars. The comptroller was alarmed at this demand. He knew it was directly contrary to the intentions of the joint committee who reported the bill, and the legislature which passed it; and he finally resorted to a construction of the act highly technical and rigid, and as foreign to the real intention of the legislature as was the amount of what he supposed to be, and probably what was intended to be, (or why should he have produced the certificates of Doct. Benson and others ?) the vice-president's claim. The act awarded to the vice-president a premium on all moneys borrowed "*on his personal responsibility*," which the comptroller construed to mean on his personal responsibility *alone*; and therefore, where treasury notes or stock were pledged jointly with his responsibility, the comptroller refused to allow the premium. This construction, in effect, nullified the act.

The vice-president fortified his claim by the written opinion of several of the most eminent lawyers in the state. On the other hand, the comptroller offered to submit the question to the judges of the supreme court; to them and the chancellor; or to the judges, chancellor and attorney general; or to the chancellor, chief justice and attorney general; or, he proposed, that the vice-president should apply to the supreme court for a mandamus against him, which would necessarily require that court to pronounce officially their opinion on the construction of the act in question. The vice-president declined to accede to any of these propositions, but, it is proper to state, that in each of the ways for deciding the question, proposed by the comptroller, the decision would have been made by a tribunal, a majority of the persons composing which were politically adverse to Mr. Tompkins.

The negotiations between the parties finally terminated in the month of August, neither party being willing to yield to the other. After it had been agreed that no settlement could be made, according to the statement of the comptroller, and not denied by the vice-president, he proposed that his account should be balanced, and to accept of twenty-five thousand dollars as the balance due him under the act of 1819; but the comptroller, having committed himself in relation to the construction of the act, refused to accede to the proposition.

The comptroller, not long after, published, in the form of a letter, addressed to the vice-president, a detailed statement of the controversy, to which Gov. Tompkins replied in a very able and eloquent communication which was published and circulated all over the state. The comptroller subsequently replied to this communication, and his reply was also published, and had an equally extensive circulation. This correspondence was conducted, although with much asperity, with great tact and ability on both sides. The comptroller proved himself, not only a distinguished and able accountant, but a talented and accomplished writer. The letter of the vice-president is a splendid production. Shortly before its publication, Mr. Van Buren spent several days with Gov. Tompkins. Although the style of this letter is more florid than generally characterizes the composition of Mr. Van Buren, I have good reasons to believe that he was its real author. But, by whomsoever it may have been written, it affords evidence that the talents of its author were of the highest order.

These proceedings, and the correspondence which grew out of them, occupied, mainly, the public attention, until the meeting of the legislature.

The advantage derived from the great personal popularity of Gov. Tompkins was nearly balanced by the universal

confidence entertained by all parties in the integrity and purity of the motives of Mr. McIntyre. In private life all men admired and loved him, and in the discharge of the highly responsible duties of the office of comptroller for many years, and under various administrations, he had afforded such proof of his fidelity to the state that no man, even in those times, ventured to charge him with intentional error.

The legislature met early in January, 1820, when John C. Spencer, of Ontario county, was chosen speaker by the joint votes of the Clintonians and federalists. Mr. Spencer received sixty-four votes, Peter Sharpe fifty, (probably the whole Bucktail vote,) and there were seven scattering votes. The assembly, at this time, contained a prodigious array of talent. In the senate the most distinguished new member was Gideon Granger, the late post-master general. He, beyond question, was one of New-England's most talented sons, but a long course of active life, and rather too much indulgence in living, had impaired his health, which, together with his advanced age, rendered him not fitted for the new theatre on which he was now called to act.

In consequence of a failure to elect a senator of the United States by the last legislature, the state was now but partially represented in one branch of the national government, and therefore the attention of the present legislature was early called to that subject. It will be recollected, that in the autumn of 1818, and early part of the year 1819, the honest republicans of the state were alarmed at the report that Mr. Clinton was about to betray the republican interest of the state by procuring the re-election of Rufus King to the senate of the United States. What, then, will be the surprise of the reader, when he is informed that the very men who encouraged the circulation of these heinous charges against Mr. Clin-

ton, in less than twelve months afterwards came out openly and decidedly in favor of Mr. King, and alleged as the reasons for their support, the conduct of Mr. King during the late war, and in the senate of the United States, which were equally as well known to them in December, 1818, as in December, 1819, and, as a further reason, that he and his friends had the merit of being opposed to Mr. Clinton ! Yet it was even so.

Shortly before the meeting of the legislature a pamphlet was circulated from Albany, addressed and sent through the post-office to all the republican members of the legislature, in favor of the nomination and election, by the republican party, of Rufus King. This pamphlet was the joint production of Mr. Van Buren and Gov. Marcy, and of course was well written.

The pamphlet admitted Mr. King to be a federalist, but it divided the federalists into three classes, as their political characters were developed during the late war.

The first class, it alleged, consisted of men who had imbibed strong predilections for the common enemy, and who were so inflamed by party malignity and heated by ambition, as to be determined to rule or ruin.

The second, were drilled party men, who thought the war impolitic, and therefore opposed the administration; and the third class were men who, although opposed to the men who controlled the national administration, deemed it their duty to join, and did actually join, in aid of war measures. To the third class, the pamphlet alleged, Mr. King belonged, and in proof of it, his conduct in the senate was referred to, his call upon Gov. Tompkins, in the year 1814, and his declarations on that occasion, which I have before stated. The pamphleteers further urged Mr. King's revolutionary services, and they add, as another reason why he deserved their support, that he and all his friends, were opposed to the re-elec-

tion of Mr. Clinton. "*There is no doubt of it,*" say they; and to fortify this assertion they refer to the vote of John A. King, against Gen. German for speaker, at the commencement of the last session.

Why should the same politicians who, in January, 1819, denounced the support of Rufus King, as United States senator, as the most heinous of political sins, without any change in the condition of the country, and upon traits of character developed, and acts done by Mr. King in 1814 and 1815, which were as well known to them at that time as at any time subsequent—why, I say, should the same politicians, in December, 1819, (for the pamphlet was published the 19th of that month,) declare that the same Rufus King ought to be supported for the office, and virtually threaten every man who refused to do so with ex-communication from their political church? The pamphleteers attempt to assign some reasons for this, but they are, as obviously they must have been, worthless and puerile. The object undoubtedly was, to draw in a portion of the federalists to the support of Mr. Tompkins, at the next election; an object which they accomplished, though not to the extent they anticipated. On the other hand, the Clintonians dared not oppose the election of Mr. King, because they feared, if they did so, they should lose the support of Mr. Clinton by the federalists. At the same time, the federalists in the legislature, led by Mr. Oakley, had not self respect enough to spurn the support of a candidate thus imposed on them by men who were denouncing their party as so contaminated that Mr. Clinton deserved political death for holding any intercourse with them. Without intending, or feeling, personally, the least disrespect to Mr. King, who, I believe, was a good as well as a great man, I am compelled to say, that the motives which induced the Bucktails to support him, appear to me to have been entirely unjustifiable; that the

motives which governed the federal and republican Clintonians were equally inexcusable; and that, in relation to Mr. K.'s Clintonian republican and federal supporters, they are also justly chargeable with a truckling and mean policy. I was myself one who was guilty of this meanness, and I therefore speak the more freely of the transaction. I was willing, and I expressed myself so, in 1819, notwithstanding the denunciations of the Bucktails, to have voted for Mr. King, but I could not do so without deserting my party; and never did I give a vote with so much reluctance, and of which I felt myself so much ashamed, (solely in consequence of the manner in which that vote was extorted from me,) as the vote I gave for Mr. King, in 1820. I ought to have had independence and honesty enough to have voted according to the dictates of my own conscience, in both cases.

Mr. King was unanimously re-elected.

In December, 1819, the territory of Missouri applied to congress for admission into the Union as a state; exhibiting at the same time a copy of her constitution, by which negro slavery was expressly tolerated. An objection was raised against this clause in their constitution, by Gen. James Talmadge from this state, and a long and angry debate ensued, in congress, upon that question. Much excitement was produced in this state by the discussion, and the feeling was apparently universal here, in favor of the ground assumed by Gen. Talmadge. The subject was taken into consideration in the assembly, and a resolution offered by Mr. McNeil, of Oneida county, as chairman of a committee to whom the matter was referred, instructing the senators, and requesting the members of the house of representatives, in congress, from the state of New-York, to support the ground taken by Gen. Talmadge. This resolution passed both houses of our legislature unanimously.



On the 4th of February, the assembly proceeded to the choice of a council of appointment, and John D. Ditmis of the southern, John Lounsbury of the middle, Levi Adams of the eastern, and Ephraim Hart of the western districts, were chosen by the joint votes of the federal and Clintonian members. All, except Mr. Ditmis, were Clintonians.

A few sheriffs and some other officers were removed by this council from political considerations, but, in general, no very important changes were made by it, principally, I presume, for the reason that by this time the offices were nearly all filled by Clintonians. The appointments in the western district were mainly regulated by Mr. Hart, and it is due to him to say, that Mr. Evans, a Bucktail senator, in accounting to me for the reason why Mr. Clinton received so large a majority in the western district, in April, 1820, ascribed it to the very judicious manner in which the appointments had been made, under the advisement of Mr. Hart.

On the 26th of January, a charge was made in the New-York American to the following purport: that in the year 1811, or beginning of 1812, the applicants for chartering the Bank of America had agreed with Wm. W. Van Ness, Elisha Williams, and Jacob R. Van Rensselaer, in order to procure their aid in the application, that the bank, when chartered, should loan to the Columbia County Bank one hundred and fifty thousand dollars, for the term of fifteen years, at an interest of six per cent; that the Bank of Columbia should pay the interest annually to Mr. Williams and his associates, who were to retain in their hands for their own private use, three per cent, that is, one-half the whole annual interest. That after the charter was granted and the bank was organized, the directors refused to sanction this agreement, but proposed to pay Messrs. Williams, Van Ness and Van Rensselaer twenty

thousand dollars, in satisfaction of the agreement, which proposition was accepted by Mr. Williams, in behalf of himself and his associates, and the money was accordingly paid to Mr. Williams, but that after receiving the money, Mr. W. refused to divide any portion of it with his partners, unless they would agree that a fourth person should be allowed to receive an equal share of it.

On the 28th of January, Gen. Root produced in the assembly the paper containing this article, and offered the following resolution:

*“Resolved,* That a committee be appointed to inquire into the conduct of William W. Van Ness, Esq. one of the justices of the supreme court of this state, and report their opinion whether the said William W. Van Ness hath so acted in his official capacity as to require the interposition of the constitutional power of this house, and that said committee have power to send for persons and papers.”

This resolution, together with a preamble, stating the grounds upon which the inquiry was directed, proposed by Col. McKown, a member from Albany, was adopted, and a committee appointed: the following are the names of the gentlemen who composed the committee:—Messrs. McKown, Root, Fox, Irving, John Miller, Walbridge, Jedediah Miller, Nelson and Vail.

It is unnecessary to go into a detail of the proceedings which followed the adoption of this resolution. It will be sufficient to state that proofs were taken before the committee, that some circumstances were disclosed which rendered the conduct of some of the gentlemen accused suspicious, but that the majority of the house ultimately decided that the proofs did not warrant an impeachment of Judge Van Ness. The members of the house generally took sides for or against an impeachment, according to the party to which they belonged; that is the federalists

and Clintonians resisted and the bucktails generally favored an impeachment.

Judge Van Ness who was a man of great sensibility, was deeply affected by these proceedings, and it is said, that his feelings, eventually induced an impaired state of health from which he never recovered.\*

\* Mr. Elisha Williams was examined on oath by the committee, and his deposition as taken by them is annexed to their report.

He stated that before the bank was chartered he made an agreement with persons who assumed to be its agents, that the Bank of Columbia should keep its accounts with the Bank of America; that the latter bank should allow the former to overdraw its account to the sum of one hundred and fifty thousand dollars, on paying an interest of three per cent only; that this arrangement should continue fifteen years, and that this contract was made with Mr. Williams individually and for his individual benefit. He acted solely for himself, and had a right to make such terms with the Bank of Columbia as he and the directors might mutually agree upon. Judge Van Ness knew nothing of this contract until *after the bank was chartered in 1813.*

Before the Bank of America went into operation, Mr. Wolcott, the president proposed to Mr. Williams a material change of the terms of the contract, alleging that from the probable future condition of the monetary affairs of the country, the bank would be unable to loan so large a sum of money for so great a length of time, at so low an interest. He, therefore, proposed to stipulate that the Bank of Columbia might overdraw its account in the Bank of America, to the amount of one hundred and fifty thousand dollars for fifteen years, paying an interest at the rate of *six per cent*, and that Mr. Williams and two other responsible persons for him should become sureties for the faithful performance of the engagements of the Bank of Columbia. Mr. Wolcott further proposed in consideration, that the first contract should be abandoned, and the proposed one adopted in lieu of it to pay Mr. Williams twenty thousand dollars. Mr. Wolcott further offered to accept as sureties for Mr. Williams, Jacob E. Van Rensselaer and Judge Van Ness. These propositions were accepted by Mr. Williams, and he applied to Mr. Van Rensselaer to become one of his sureties, to which he consented on condition that Williams would pay him five thousand dollars out of the twenty thousand he was to receive from the Bank of America, to which Williams agreed. Mr. W. then applied to Judge Van Ness, and requested him also to become his surety, to which he readily consented without fee or reward; but Williams insisted on paying, and did pay him the same sum he paid Van Rensselaer, namely, five thousand dollars. [*See Assembly Journal of 1820, p. 633.*]

Assuming this statement to be true, and it would be extremely uncharitable to doubt the oath of such a man as Elisha Williams, I cannot perceive anything in the transaction which in the slightest degree ought to tarnish the character of Judge Van Ness. The deposition of Mr. Williams was strengthened and supported by the testimony of J. R. Van Rensselaer and Charles Newbold, one of the agents and directors of the Bank of America.

Judge Van Ness, it appeared, had exerted his influence in favor of granting the charter for the bank, and the fact that he had received five thousand dollars, which came originally from that institution, was urged as an evidence that his motives were impure. But Mr. Williams testified that the federalists, as a party, were anx-

The governor in his speech at the opening of the session recommended the call of a convention with powers (limited in the act by which the call should be made) to abolish the council of appointment, and consider on such other amendments to the constitution as should be designated by the legislature. Had he done this one year before, and his friends supported his recommendation, it would probably have been better for him and for the state also.

A bill was brought in and discussed, but as the assembly greatly differed, not only about the details but the principles which ought to be embraced in it, it failed of becoming a law. Most of the Bucktails were for calling a convention with unlimited powers.

Early in the session, the comptroller communicated to the assembly a history of his proceedings under the act for "the settlement of the accounts of D. D. Tompkins;" stating the difference in opinion between him and the vice-president in relation to the construction of that act, and the reasons upon which his opinion was founded. This communication was referred to a select committee of which Jedediah Miller of Schoharie was chairman.

On the 16th of March, the committee made a very long and able report, in which they examined with great minuteness, the several matters involved in the controversy, and finally recommended the adoption of the following resolution:—

*"Resolved*, as the sense of this house, that the conduct of the comptroller in regard to the auditing and settling the accounts of Daniel D. Tompkins, Esq. late

ious to incorporate this company, because it was known that a majority of the stock would be taken up by federalists, and that thus an institution might be created capable of counteracting the political influence of the Manhattan Company. All who knew Judge Van Ness, well know that he was much more desirous of political ascendancy, than pecuniary gains. Is it not then easy to account for his exertions in favor of chartering the Bank of America, without imputing to him corrupt motives?

governor of this state, both previous to, and under the act of the 13th of April, 1819, has been that of a firm, faithful and intelligent public officer, and meets the full and entire approbation of this house."

The merits of this report were discussed with great ability for many days. Those who most distinguished themselves in support of the views presented by the committee, were, Messrs. Oakley, Spencer, (the speaker,) E. Williams, McKown, C. H. Ruggles, now a distinguished judge of the third circuit, Ogden of Otsego, Jno. Miller of Cortland, Fox of Warren, H. Camp of Tompkins, and Tibbits of Troy. The most powerful and efficient men in the opposition, were Messrs. Root, Sharpe, Roman, Ulshoeffer, J. T. Irving and Seymour. I have said that this assembly contained much talent; of this assertion the debates on this question, and on the proceedings against Judge Van Ness, furnished a conclusive and splendid demonstration. I was a member of the house of representatives of the United States, and of course heard the discussions of that body for two successive sessions, and I have on several occasions witnessed the debates in the house of commons in England, and although in those bodies there were individuals possessing higher qualities as statesmen, and parliamentary orators than in the New-York assembly, yet if the whole number of public speakers in those bodies were compared, with the whole corps of debaters in the assembly of 1820, I do not think the latter would suffer by a comparison with the former. I may be incompetent to judge—I may be partial to the inhabitants of my own state, and of course I may misjudge, but this is my honest opinion. For skill in argument, parliamentary tact, pungency of wit, and clear, sound, logical powers of mind, few men of the age would, I imagine, have excelled Messrs. Oakley, E. Williams, E. Root, J. C. Spencer, Ulshoeffer, Roman,

and McKown. The last named gentleman was a young member, and distinguished himself most in the discussions which grew out of the resolution of inquiry into the conduct of Judge Van Ness, proposed by Gen. Root. It is deeply to be regretted, that he did not longer continue a member of our legislative assemblies. His talents which are of the first order, seemed to me to be particularly adapted for usefulness in those bodies.

On the 12th of January, Mr. Van Buren offered a resolution in the senate, calling on the comptroller to report to that house whether the accounts between the state and D. D. Tompkins had been settled according to the act of the last session, and if not, then to transmit to the senate a copy of the claim which had been exhibited by the late governor against the state, and generally the action of the comptroller on that subject.

In answer to this call, Mr. McIntyre presented a concise view of the transactions between him and the vice-president on that subject; and that answer was referred to a select committee of which Mr. Van Buren was chairman.

On the 9th of March, the last mentioned committee made an able and eloquent report to the senate, in which they reviewed the proceedings under the act of the last session, and arrived at the conclusion that the comptroller ought to have allowed Gov. Tompkins a premium of twelve and a half per cent on one million fifty thousand dollars, which would produce one hundred and thirty-one thousand two hundred and fifty dollars; and would leave a balance due him according to the estimate of the committee, of eleven thousand eight hundred and seventy dollars and fifty cents; and they reported a bill for the payment to the late governor of that balance, upon his releasing all his claims against the state.

It may be proper to state that it was admitted by the vice-president and his friends, that the services for which he claimed compensation were rendered *to the United States*, and that the losses he had sustained had been incurred in their service, and therefore, that the United States government and not the state of New-York, ought to remunerate him for those services and losses, and accordingly the original bill directed the comptroller to debit the United States with the amount of money allowed by him to the vice-president for services, &c.

When the report of the committee, together with the bill came up in the senate, the argument which one would naturally have supposed would have been rather a dry law argument upon the construction of the act of 1819, and the intention of the legislature in passing it, probably with a view of exciting odium against the comptroller, was chiefly directed to the items which had been claimed by the vice-president, and rejected by the comptroller. This course of argument however was excusable, because in discussing the same question in the assembly, the Clintonians had criticised with great severity many of the charges made by the vice-president, probably with a view of exciting public odium against him.

The only speech made in support of the report and bill, was made by Mr. Van Buren. It occupied a part of two days, and was one of the most ingenious, able and eloquent speeches I ever heard. It has been the custom of the opponents of this gentleman, both in the state and nation, to give him credit for great tact and management as a mere politician, and to deny that he possesses those high and exalted powers of mind which always distinguish the great statesman and the commanding parliamentary orator. But any fair minded man, who has heard Mr. Van Buren on great and important questions in our legislative assemblies, whether state or national, will not hesitate to award him

the meed of high merit. It is on these occasions and more especially in his efforts as a lawyer in our highest courts of judicature, that Mr. Van Buren has afforded decisive demonstration of the most commanding and splendid intellectual powers. In the senate, the opposition to the report and bill was feeble. Mr. Granger afterwards published a written argument, which in consequence of ill-health, was not delivered in the senate, purporting to be an answer to Mr. Van Buren, but it had little effect on the public mind.

The report was concurred in, and the bill was passed by a majority of nearly two to one.

When this bill from the senate came into the assembly, it was referred to a committee of which Mr. Oakley was chairman. On the 6th of April, he made a report against it. That report assumed that the proceedings of the comptroller, had been, in the judgment of the committee, correct; that no further legislation than that contained in the act of 1819, ought to be had on the subject; that the vice-president must seek his relief under that law, in the same way, and on the same footing of all other citizens; and that he ought to be satisfied with the construction which should be given to the statute by the judicial tribunals of the country, and with a view to obtain that construction, the committee recommended an amendment to the senate's bill by striking out the whole of it except the enacting clause, and inserting in lieu thereof a provision requiring the comptroller in case the vice-president should not pay the balance declared at the accounting office to be due from him, by the first day of August, then next, to commence a suit against him for the recovery of the same; in which suit the vice-president should be permitted to offset his claim for premiums under the act of 1819.

This report was confirmed by the majority in the assem-



bly, and the bill passed as amended by the select committee; and here all action in the two houses ended.

In conclusion, I have to remark, that notwithstanding this controversy continued so long in the legislature, and among the people, and excited so much asperity and bitterness, the real object of the two parties, so far as the same was to be effected by legislation, did not materially differ. Both parties admitted that the services of Gov. Tompkins during the war, had been great and arduous; both admitted that he had not intentionally wasted or appropriated to his own use the public moneys; both admitted the comptroller to be a correct, able and faithful accounting officer; both were willing and desirous that the accounts of the vice-president with the state should be balanced without the payment by him of a single cent, and neither would consent that after balancing his accounts any considerable sum should be paid to him. The difference so far as principle was concerned, consisted in the manner of doing that which all believed ought to be done. The one party desired to *pay him*, as a debt, say one hundred and twenty thousand dollars; the other wished to allow him that sum in consideration of his losses, and as a gratuitous reward for his services. Had a bill been brought in, reciting those services and losses, and the confused state of the vice-president's vouchers, and accounts, and directing the comptroller in consideration thereof, to balance his accounts, it must in any stage of this controversy have passed both houses unanimously; and such should have been the bill passed in 1819. The notion of charging the amount allowed to the vice-president, to the United States, was a humbug, and known to be such. Hence it is most evident that the reason the controversy assumed the shape it ultimately did, and of the adverse action of the two houses was, that both parties thought

they could make political capital out of it, and each party thought it could make more than the other.

On the 18th of January, a caucus of republican members of the legislature opposed to the re-election of Gov. Clinton, was held at the capitol. Sixty-four members were in attendance, of whom, fifty-two on balloting voted for Tompkins as the candidate for governor, and he was therefore declared duly nominated.

Gen. Benjamin Mooers of Plattsburgh, of the senate, was nominated the candidate for lieutenant governor.

Gen. Mooers had been nominated and elected at the very last election a senator from the eastern district, by the Clintonians as a Clintonian. Here is another instance of a senator elected, professing to belong to one party and immediately or shortly after, declaring himself to be of the other. This is a sort of political swindling,—a cheating by false pretences. Probably Gen. Mooers did not take this view of the question, for he was apparently an amiable and good man, and I believe, as a neighbor and citizen, was universally esteemed.

The republican friends of Gov. Clinton in the legislature were at this session in the minority. It was not, therefore, thought judicious to make a legislative nomination. In order to prevent a public exhibition of the meagreness of our number, making a merit of necessity, we affected to disapprove of selections of gubernatorial candidates by legislative caucuses. Mr. Clinton and John Taylor were nominated for re-election at a meeting of the citizens of Albany, of which Mr. William James was chairman.

The state candidates of both parties were now in the field, and the campaign was fairly and vigorously opened.

On the 11th of April, a most singular document, having reference to the coming election, was issued from the press at Albany, and circulated through the state.

Ever since, and perhaps before the contest for speaker in 1819, and for an United States senator during the same session, a party among the federalists, of whom William A. Duer of Albany, and Charles King of New-York, were the most active, seemed to have been formed with the avowed object at all events of putting down De Witt Clinton.

The sons of the late Gen. Hamilton and of Mr. Rufus King, early and unanimously formed a part of this association. From an article published by Mr. William Coleman in the Evening Post, a few days after the election in 1820, it appears that he too was inclined to join in the combination. From a community of feeling, prejudices, principles, interests and views, several distinguished federal gentlemen residing in various counties in the state, also united eventually with them in political action. One of the strongest objections they seemed to have entertained against Mr. Clinton, was that his party partook of the character of a personal party; that those whom he was most inclined to favor, were continually lauding him, and that there was among his confidential friends and favorites a total want of independence, of character and a suppleness of disposition, (which by the by may have been partially true when applied to many of Mr. C.'s old friends in New-York,) disgusting to the feelings of all truly *high minded* and honorable men who entertained a decent self respect. From frequently urging this view of the character of Gov. Clinton and his confidential friends, this class of federalists acquired the name of "HIGH MINDED" federalists.

On the 14th of April, these gentlemen, to the number of fifty, issued an address to the people containing an expose of their political views, and avowing their determination to support the election of Mr. Tompkins, and the reason upon which that determination rested. This is the

document which I have characterised as singular; and I do so, not on account of the determination made by its signers, but because of the *reasons* given by them for such determination; and here let me remark, that so formidable an array of talent, wealth, influence in society, and indeed personal worth, embracing so many men and so scattered through the state, I do not believe, can be found in the annals of our political parties, who combined for the accomplishment of a single political object, but who carried so few of the rank and file men with them, as did these fifty high minded federalists.

To show that I do not overrate the talents, standing and weight of character of these gentlemen, I give the names of those who signed the address which fell under my observation :

Peter Jay Monroe,	James Lynch,
J. O. Hoffman,	Glen Cuyler,
Jonathan Hasbrouck,	John L. Wendell,
Geo. D. Wickham,	Charles King,
Morris S. Miller,	A. B. Hasbrouck,
Melancthon Wheeler,	T. S. Morgan,
Levi Callendar,	Jeffrey Wisner,
Joshua Whitney,	James A. Hamilton,
John Suydam,	Ebenezer Griffin,
R. W. Stoddard,	John C. Morris,
David Hudson,	Livingston Billings,
H. Montgomery,	Tracy Robinson,
H. B. Bender,	Johnson Verplanck,
Geo. W. Tibbits,	Henry Brown,
Thomas Mumford,	Thomas J. Delancy,
John A. King,	Thos. G. Waterman,
Elisha B. Strong,	John C. Hamilton,
Geo. F. Tallman,	John Duer,
Joshua A. De Witt,	Jas. Clapp,
Charles A. Foot,	Wm. P. Sherman,

Isaac Dubois,  
Zeb. R. Shepherd,  
Alanson Austin,  
Garrit Post,

Elisha Ely  
H. Vanderlyn,  
W. W. Mumford,  
Wm. A. Duer.

In their address, they commence by affirming that the federal party—a party of which they claim to have been members, and of whose principles they profess their entire approbation, no longer exists. They say, as a party it is dissolved and annihilated, and that even the bonds “of mutual confidence *and private regard* are severed, perhaps forever.”

They approve of the doings and administration of the general government, and they affirm that the federalists have now “no ground of principle,” on which to stand, and therefore declare their intention of uniting with the great republican party of the state and union. They do not object to the capacity of Mr. Clinton, to his morals nor to the measures he had recommended. The sole ground of objection against him is, that they allege he is attempting to form “a personal party.”

The palpable absurdity with which this address strikes my mind is this, that while every school boy in the state knew that Mr. Van Buren and his friends entirely approved of the measures recommended by Gov. Clinton, admitted his competence as to talents, and his virtues as a private citizen, and that they opposed him solely and exclusively on the ground that the *federal party did exist* in the state, and that Mr. Clinton was secretly inclined to favor it; yet the high minded gentlemen opposed Mr. Clinton because, as they alleged, the federal party *did not exist*, and thereupon joined the party who held the contrary position.

The case presents this most extraordinary spectacle. Two parties unite to oppose the election of a governor, neither of which charge upon him a want of capacity, or

integrity, or utter a solitary complaint against his measures. The one party declare that the federal party does not exist; and yet it joins the other, "the great republican party," whose only bond of union is a belief that the federal party does exist, which proposition the high minded men had publicly avowed was untrue. Such are some of the inconsistencies of politicians!

The election was very close. The anti-Clintonian party, which now fairly deserves to be denominated *the* republican party, succeeded in electing a majority of the members of the assembly, and in two of the senatorial districts, notwithstanding which, Mr. Clinton was re-elected by a majority of one thousand four hundred and fifty-seven votes.

The senators this year elected were Walter Bowne and John Lefferts, from the southern; Wm. C. Bouck, Tilly Lynde, and John Miller, from the middle; Ephraim Hart, Oliver Forward and Elijah Mills, from the western districts.

## CHAPTER XXVI.

FROM MAY 1, 1820, TO MAY 1, 1821.

THE result of the election, so far as respects political power, was a complete triumph to the opponents of the governor. In the senate they had for some time had a strong majority, and the new senators elected added to that majority. In the assembly the majority against the governor was eighteen. How did it happen that Mr. Clinton, when his friends were slain around him, after a competition with a man who, perhaps, was personally more popular than any man the state ever produced, should have walked off the field in triumph?

Among the causes to which this result is to be ascribed, the following appear to me most prominent:

The people are always sensitive, and justly so, in relation to the management and expenditure of their money. If the vice-president was popular as a governor, Mr. McIntyre was equally so as a citizen, and as a faithful guardian of the treasury; and no doubt many of the personal and political friends of the late governor suspected that there was something wrong in his accounts, and in his management of the public funds, and withheld from him their votes on that account; and I think the inference may be fairly sustained, that he lost more from the suspicion, than he gained from the sympathy of his republican friends.

Notwithstanding the division produced by the corps of high minded federalists, the great body of the federalists gave Mr. Clinton a more unanimous support than they had done either Mr. Burr or Gov. Lewis. As a party, the name of Tompkins, was peculiarly odious to them.

Their repeated, though unsuccessful contests with him, had increased, rather than diminished their hostility. Mr. Clinton, had never deceived them. From the year 1813, when he and many of his most devoted friends supported Van Rensselaer against Tompkins, he had never made professions to them which he had not endeavored to fulfil. They admired his indomitable firmness and moral courage.

Intelligent men of all parties entertained a high regard for his talents. On all occasions Clinton manifested great respect for literary merit, and the institutions of science. This brought into his support the friends and patrons of those institutions, and, generally, the scientific men of the state.

But the most effectual cause of his triumph was the able, ardent, and uniform support he had given to the canal policy. He had, from the origin of that policy, committed himself in its favor, and had boldly staked his political fortunes on its issue. He was its uncompromising friend, while we have seen that Gov. Tompkins had studiously avoided any direct commitment in favor of the measure, and many of his most ardent supporters, particularly in the southern district of the state, were yet open and virulent opponents of the whole scheme of internal improvements. The shrewd, clear sighted yankee farmers of the west saw and appreciated all this. Hence the strong majorities for Clinton in the great republican counties of Ontario and Genesee; and hence the majorities for him in the eastern and western districts, those districts being most directly interested in the accomplishment of the great work. The returns of the election showed a majority for De Witt Clinton, in the eastern district, of two thousand three hundred and fifty-two, and, in the western, three thousand four hundred and fifty-two, while the middle district gave the vice-president a majority of



one thousand one hundred and sixteen, and the southern three thousand two hundred and thirty-one.

The result of the election however, had, in every part of the state except the western district, and a small portion of the eastern, drawn together and formed into one body nearly all the old republican party, in opposition to the executive authority of the state.

This state of things was extremely awkward and embarrassing to the few republicans who still continued to yield to the governor their support. We felt that we were a mere handful of men dependent on the federalists for our political existence. We knew that that party, whom we had formerly so zealously, and some of us efficiently opposed, were as well aware of the true state of things as we could be. Perhaps it was jealousy—perhaps it was unfounded suspicion—but I confess I thought the federalists regarded us as an incumbrance upon them; or rather, somewhat as the rich man regards his poor relatives, who have been cast upon his charity and whom he feels bound in honor to maintain, although the expenditure for that maintenance goes to diminish an estate which he has a right exclusively to enjoy.

But, if the federalists did entertain these feelings, had we any cause of complaining of them on that account? From the nature of the case were not those feelings extremely natural? We were a fraction of the republican party, which party held the control of the state. We detached ourselves from the majority of our party and by the aid of the federalists, since the commencement of the year 1819, had controlled the patronage and political power of the state, and yet, we still professed to be opposed to the federalists. We declared that our opinions of their principles and measures remained unchanged, and we, who were a small minority, when compared with the federalists, and a still smaller minority of the republican

party, claimed an almost exclusive control, and vastly more than our share, of the state patronage. Was this reasonable? Could such a state of things last? To illustrate its absurdity I will suppose the federal and republican parties, in 1819, to have consisted of twelve men only; seven of whom were republicans and five federalists. I will suppose that A. and B., two of the republicans, detach themselves from the seven, and by the aid of the five federalists seize upon the state patronage and use it all, or nearly all, for their own benefit. It is most evident that so unfair and unequal a state of things could not long exist. The five federalists, knowing that A. and B. held power entirely at their pleasure, would either seize it themselves, or a portion of them would go over to the five republicans, with whom they could, at least, have an equal share in the division of the spoils.

It is most obvious that one or two axioms may be deduced from this view of the matter. First—that there can, (in general,) be but two political parties in a free state. Second—that when a fractional portion of the party in the majority differ in opinion with the majority of their party, and if that difference is so fundamentally important as, in their judgment, would render the success of the adverse party beneficial to the country, they ought to withdraw from their old associates and join as rank and file men the adverse party; but in no case ought they to attempt to form a third party, in expectation of the aid of the minority party of the two great parties. It is an expectation which can never, from the nature and constitution of man and of human society, be realized.

True it is, if an individual believes the object and end of both the great political parties to be injurious to the country, he has the right, and it may be his duty to withdraw himself entirely from the political field; and if there be a sufficient number of individuals who entertain similar

views, a new party may be formed; but in this case it is the duty of the new, or third party, to make war indiscriminately on each of the two existing parties. But such a state of things can seldom exist long. It is as unnatural as a battle between three ships at sea, each fighting against the other two.

The title of the Albany Register was, about this time, changed to that of the New-York Statesman, and it was now under the exclusive management of Mr. Carter.

On the 25th of August Judge Buel transferred all his interest in the Albany Argus to Moses I. Cantine and Isaac Q. Leake. Mr. Cantine, it will be recollected, was a brother-in-law of Mr. Van Buren.

That paper, under the judicious and prudent control of Mr. Buel, had acquired a very great and commanding influence in the democratic party. A more discreet newspaper editor than Mr. B. could not be selected from the whole corps editorial in the state. Although not brilliant, he was wise; but the profits accruing from the state printing were, and are, very considerable, and Mr. Buel had, by industry and good management, acquired a handsome fortune during the six years he had been state printer; it was therefore, thought reasonable that he should give place to other persons, who were supposed to have equal, or perhaps superior claims on the democratic party. The contract was probably, in reality, made, rather with the leaders of the democratic party than with Messrs. Cantine and Leake—the last named gentleman stipulating to pay Mr. Buel a round sum of money for his printing establishment and the favor to it, and the party leaders agreeing that Cantine and Leake, who, by the by, were both entirely ignorant of the printing business, one of them having been bred a lawyer and the other brought up in a bank, should be appointed state printers. This bargain was ultimately car-

ried into effect, and sanctioned by an act of the legislature.

On the same 25th day of August a meeting was held at Tammany Hall, of which Stephen Allen was chairman, and Adrian Hagerman secretary; at which it was resolved that a convention, with unlimited powers to amend the constitution, ought to be called.

Heretofore the republicans opposed to Mr. Clinton, as well as those who supported him, had differed in opinion in relation to the details of a bill for the call of a convention. The re-election of Mr. Clinton had probably produced, in the ranks of the democracy, an unanimity of opinion on that subject. They perceived that the only sure means of ridding themselves of him, was by a change of some of the principles of the government; and they availed themselves, with great skill and adroitness, of the propensity of the people for an alteration of the constitution, to effect that object. I speak now, not of the mass, but of some of the considerations which probably influenced mere politicians.

The meeting at Tammany was, no doubt, the result of a consultation of the party leaders in the state; for the democratic newspapers generally, throughout the country, now advocated a convention with powers unrestricted.

On account of the approaching presidential election a session of the legislature, in November, was required for the appointment of electors.

Peter Sharpe, of New-York, was elected speaker of the assembly. He received sixty-nine votes for that office, and John C. Spencer fifty-two. Derick L. Vanderheyden was chosen clerk by the following vote:—D. L. Vanderheyden sixty-three, and Aaron Clarke sixty-two votes. Mr. Clark was an excellent clerk, but not a very decided politician; both parties claimed him, or rather he occasionally claimed both parties. A majority of the reformed

democratic party was now found, but barely strong enough to oust him by one vote. In a pecuniary point of view, and perhaps in all other respects, his ejection from the clerkship of the assembly was beneficial to him. He removed shortly afterwards to New-York, and I scarcely need add, he has since been twice elected mayor of that city.

The governor's speech, which was written with his usual ability, contained many highly important suggestions and recommendations.

He advised the passage of a law for the choice of presidential electors by the people, by general ticket, to continue in force until the United States constitution should be so amended as to require the electors to be chosen in separate districts, throughout the union.

He protested against the interference of the officers of the national government with our state elections. On that subject, he said:—"Our government is complex in its organization, and it is essentially necessary to preserve the state governments in their purity and energy. A free government could never exist in a country so extensive as the United States, without a judicious combination of the federal and representative principles. The apprehensions which some of our wisest statesmen entertained, at the formation of the constitution, that the state governments would constantly encroach on the powers of the national government, appear not to have been realized. The practical tendency has been in the opposite direction. The power of the general administration has increased with the extension of its patronage. And if the officers under its appointment shall see fit, as an organized and disciplined corps, to interfere in the state elections, I trust that there will be found a becoming disposition in the people, to resist these alarming attempts upon the purity and independence of their local governments: for, whenever the

pillars which support the edifice of the general government are undermined and prostrated, the whole fabric of national freedom and prosperity will be crushed in ruin. I have considered it my solemn duty to protest against these unwarrantable intrusions of extraneous influence, and I hope that the national legislature will not be regardless of its duty on this occasion."

He also again recommended a state convention to amend the constitution, to be binding on the following conditions.

First—That the question whether a convention should be called, should be submitted to the people and decided by them by a majority of votes at the polls of election; and second—if a convention should be in this way called, that their doings should again be submitted to the people for their confirmation or rejection.

On the eighth of November, the second day after the legislature convened, the assembly proceeded to choose a council of appointment; and the following was the result of the vote:—southern district, Walter Bowne, seventy-one; middle, John T. Moore, seventy-one; eastern, Roger Skinner, seventy-one; western, David E. Evans, seventy-one. The Clintonian candidates were Townsend, Ross, Frothingham and Barstow, who each received fifty-four votes.

All the members of the new elected council were politically hostile to the governor, and all, except Mr. Evans, were particularly and especially so. The propriety of selecting Mr. Skinner for a councillor, was questioned with great plausibility. He had been, about a year before, appointed United States judge of the northern district of New-York, an office which had become vacant by the death of Judge Talmadge. In more early, and perhaps it might not be too much to say, purer days of the republic, that same senate of which Judge Skinner was a member, had resolved that the holding of an office under the United

States was incompatible with a seat in the New-York legislature. But here, it was not only determined that Mr. Skinner should continue to hold his seat, to which no one at that time objected, but that he should be thrust into the very whirlpool—the vortex—of party operations and management. This certainly was wrong, and the condemnation of the practice has been distinctly pronounced by an amendment to the constitution, which was proposed by the convention of 1822, and sanctioned by the people.

The new council did not meet until the next winter's session.

On the next day the presidential electors were chosen without, I believe, any serious disagreement. The Clintonians, however, held up candidates, but the republican ticket, headed by William Floyd and Henry Rutgers, as state electors, succeeded by a majority of eighteen in the assembly and eight in the senate.

Gen. Root brought in a bill *declaring* that slavery could not exist in this state, being inconsistent with its constitution and laws. Upon the principles contended for by Mr. Root, the bill was, of necessity, declaratory in its character. He contended that the Declaration of Independence was the fundamental law of the land, in all those states which claimed, or admitted, that that instrument was framed by their agents; and that it especially made a part of the constitutional law of New-York, because it was actually incorporated into our constitution.

That declaration declared that all men were born free and equal, and that life, liberty and the pursuit of happiness was the inalienable right of all. It resulted, as a self evident truth, that if all men were born free and equal no person could be born a slave.

Gen. Root, however, was not able to get a vote taken on the merits of his bill. It was postponed.

I copy the following very imperfect sketch of the last remarks of Mr. Root, on this subject, from the New-York Statesman. Every person who has heard him when excited in debate, will readily perceive that the sketch furnished by the report cannot have done justice to the speaker:—

“ Mr. Root hoped for the indulgence of the committee, for once more occupying the floor in defence of the principles of this bill. The gentlemen from Orange, (Mr. Borland,) has cited the common law of England, and colonial precedent, as authority for justifying and legalizing slavery in this state. Mr. R. said, that after the revolution a statute was passed by this state, declaring that after the first day of May, 1788, the common law of England, and the laws of the colony, should not continue in force any farther than such laws were applicable to our republican institutions and customs. But even the common law of England does not sanction the existence of slavery *at home*. It was true, that in the earlier periods of English history, while the feudal system was yet in vogue, a species of slaves, called *villains*, were held in bondage by the iron-handed barons. But this barbarous age had gone by, and Magna Charta had annulled this system of vassalage. Slaves could not now breath in England. True, she graciously permitted slavery to exist in her colonies ; but we were not compelled to abide by a custom which she had tolerated. In reply to his friend from New-York, Mr. R. observed that a very considerable proportion of our statutes are merely declaratory, setting forth principles which are found in the constitution. He wished gentlemen to look at the preamble of the constitution—there was to be found the interpretation of that charter of our citizens. He referred also to the Declaration of Independence, as containing the principles of this bill. Our constitution is based upon that Declaration, which is explicit upon the



equal rights of all men. Out of that sacred soil, said Mr. R., our constitution, and all our laws spring; and we cannot tear up that soil without defacing it. He inquired, if people would confine themselves to *paper constitutions*—if they would not look abroad beyond these narrow confines of right and wrong—if they would not recur to first principles—to the laws of nature and of nature's God—to the foundations of equity and justice. Before these broad and fundamental principles, the laws of men ought to vanish like a mist before the beams of the sun. The gentleman from New-York asks time to read the constitution! Will that gentleman acknowledge that he is not acquainted with the constitution? He was, however, willing to give time for reflection; but the sooner the bill passed, the better for the state. Mr. R. concluded with hoping that the committee would pass the first clause of the bill, and then go to dinner."

It appeared, from a report of the attorney general, that he had commenced a suit against the vice-president, in behalf of the state, to recover the balance due from him as reported by the comptroller.

On the 10th November Mr. Skinner brought a bill into the senate, accompanied with a release of all claims of Mr. Tompkins against the state, which bill declared the acceptance, on the part of the state, of the release, and directed the comptroller to cause it to be filed and thereupon to balance his accounts.

This bill, after some feeble opposition, rather to the haste with which action on the bill was pressed, than to its principles, passed both houses and became a law. Thus this question, which had produced so much discussion in the legislature, and controversy among the people, was finally put at rest.

The great and absorbing question which occupied the attention of the legislature, and the public generally, du-

ring this session, was the call of a convention to amend the constitution. The democratic party now held a majority in both branches of the legislature, and judging from the returns of members of assembly at the spring elections, and from more recent demonstrations of public opinion in various parts of the state, no discreet man could doubt but that, if a convention should be authorized, a large majority of the delegates would be republican. They, therefore, wisely determined to do what I pressed upon the Clintonians to do, in 1818 and 1819, which was, to get up a convention while they had the power of controlling it. It was one of Mr. Van Buren's maxims, that that which ought to be done should be done quickly.—A sound maxim, applicable to most of the concerns of human life. Much *may* be lost, and seldom any thing can be gained by delay.

That part of the governor's speech pertaining to a convention was referred to a committee, of which Mr. Ulshoeffer was chairman. The committee, with great promptitude, reported a bill for the call of a convention with unlimited powers, whose doings were to be submitted to the people, and confirmed or rejected, as they should think proper.

This bill came up for discussion, in the assembly, on the 15th November. All the members professed to be in favor of the principle of the bill, and the first clause of it passed unanimously; but they differed in relation to the details, and the proper time for considering it. The Clintonians wished to postpone action on the question until the regular session in the winter; and Mr. J. C. Spencer, from Ontario, contended that the counties ought to be represented in a ratio proportioned to the present number of inhabitants, which might be done if action on the subject should be put off till the next winter, because the returns of the United States census, then being taken, would

be before them in February. He showed that some of the western counties would then be entitled to nearly double their present representation. Mr. Ford argued that the question whether there should or should not be a convention with unlimited powers, ought first to be submitted to the people.

It is due to candor and truth to state, that the Clintonians, as a party, were, notwithstanding their vote on the first clause of the bill, opposed to any convention with unlimited powers. They believed that the action of the convention would be exclusively controlled by the republican party, and they feared that would be done, which eventually was done, namely, that the judiciary system would be abolished and a new one established, by which the judges and chancellor would be, if I may be allowed to coin a word, *constitutionized* out of office. Notwithstanding the legal learning and talents, and integrity of the judges of the supreme court, much of popular prejudice had accumulated against them, principally, if not solely, in consequence of their interference with political concerns; and, as the judges belonged to different parties, citizens, who were members of each party, had felt dissatisfied with such occasional interference. There were, too, a great number of ambitious young lawyers in the state who acted with the democratic party, who, it may fairly be presumed, had their eyes upon some of the great offices then secured to the incumbents by the constitution, and who did not fail to encourage those jealousies and fan the embers of animosity against the judges and chancellor. Of all this the Clintonians in the assembly were fully aware, and they therefore made use of every effort to prevent an immediate call of a convention. On the other hand, it is, in my judgment, very evident that the leading republicans would not have consented to the proposed convention had not Mr. Clinton been re-elected, and had

they not entertained a well founded belief that they could control the essential action of a convention when formed. I make this assertion from my knowledge of the men, and from the fact that until the present session they apparently, by a tacit understanding among themselves, disagreed as to the details of a bill for the organization of a convention. In justice to Gen. Root, however, I ought to remark that his action on that question for three successive sessions was perfectly uniform and consistent; but the chairman of the committee Mr. Ulshoeffer, had the session next preceding the present, contended that the question of convention or no convention ought first to be submitted to the people, and had himself offered the very amendment to the bill then under consideration, now proposed and advocated by Mr. Ford, and which Mr. Ulshoeffer now vehemently opposed.

All attempts to postpone, or alter the material features of the bill, by the minority, both in the senate and assembly, finally failed, and it passed both houses on the eighteenth of November.

In the council of revision, the bill was considered on the 20th of November. Mr. Justice Van Ness and Mr. Justice Platt, were both at that time absent, holding circuit courts. There is, in my mind, little doubt that it had been pre-determined by a majority of the council to veto the bill; and it was supposed that all the members of that body, except Judge Yates, would concur in such vote. None of the members felt a deeper interest than Judges Van Ness and Platt in preventing a convention, but they probably were desirous of avoiding any direct personal action on the question, and it is not at all improbable that the arrangement, which at this moment called them in the discharge of their official duties from the seat of government, may have been made at their instance.

Inasmuch as the governor's political existence depended on the popular will, and it was pretty well known that an immense majority of the people were for a convention, either with or without limited powers, and more especially as the governor was committed in favor of a convention with unlimited powers, both he and his friends were desirous that he should not be compelled to vote on the bill, and at any rate that he should not vote against it.

The members of the council who were present at the time the convention bill was considered, were Gov. Clinton, Chancellor Kent, Chief Justice Spencer, Judge Yates and Judge Woodworth.

The Chancellor was called on for his opinion, and declared it against the bill, and the Chief Justice concurred with him. Judge Yates voted in favor of it; but when Judge Woodworth was called on, who all supposed would vote against the bill, to the utter astonishment of the chancellor and chief justice, as well as the extreme embarrassment of the governor, he voted in favor of it. This produced a tie in the council and compelled the governor to give a casting vote. He did so, and the bill was rejected.

The propriety of passing the convention bill did, beyond all doubt, present a question upon which intelligent, honest and patriotic men might differ; and one can hardly perceive why Judge Woodworth should have been condemned as acting from improper motives when he voted in favor of it. His conduct nevertheless was animadverted upon with great severity, and the purity of his motives impeached.

The reasons of this attack upon the Judge were, that he had but a short time before claimed to be a prominent member of the Clintonian party; that he had solicited his appointment as judge, upon the ground that he was the political friend of the governor; that his claim had been

allowed by the governor and council of appointment, in preference to other candidates, admitted to possess high standing as lawyers, and a high grade of talent; that the passage of a convention bill at that time had become a party question, and that Judge Woodworth ought not at such a juncture to have abandoned his political friends, through whose power and influence he had received a high and important office from which he could not be removed.

Another imputation was made against Judge Woodworth, which if unjust was extremely cruel.

Judge Woodworth had been sued in the supreme court as endorser of a promissory note for several thousand dollars, for James Kane, for whose benefit the note was endorsed, and who had become insolvent. He set up in his defence that the body of the note had been materially altered after he endorsed it. The supreme court gave judgment against the Judge; and he had brought from that judgment, error to the court for correction of errors; which matter was then pending before the court of errors. It was alleged in private circles and publicly talked of, that Judge Woodworth was induced to give the vote above referred to in the council of revision, in the hope, or in accordance with a secret understanding with the party in the majority in the senate, that that majority would decide that the judgment rendered against him by the supreme court should be reversed.

Before I go further I may perhaps as well state that the cause came on for argument in the court of errors, in March, 1821. The report of the case will be found in 19 *John*. 391; *Woodworth vs. Bank of America*. The cause was argued by Talcott and Van Buren for the plaintiff in error, and Hoffman and Henry for the defendants. The opinion of the majority of the court was delivered by senator Skinner in favor of reversing the judgment, and with him seven-

teen senators concurred. The chancellor delivered an opinion in favor of affirming the judgment, and with him nine senators concurred. Every senator who was for affirming the judgment of the supreme court were Clintonians, and every one who voted for reversing, were political opponents to the governor.\* This circumstance gave color to the allegation that the judge, in giving his vote as a member of the council of revision, was governed by improper motives. I was not present during the whole of the argument, and therefore, according to established usage, did not vote on the question. It is however, perhaps due, in frankness and candor, to Judge Woodworth and the party in the majority, to state that at that time I expressed an opinion, and have ever since retained it, that Judge Woodworth's defence was a good and valid one, and that the judgment of the supreme court was wrong. The note, when endorsed by Woodworth, was not made payable at any particular place. *After* he endorsed it Mr. Kane added on the margin of the note the words "payable at the Bank of America." Before those words were added, the endorser could not be made liable unless a demand had been made of the maker personally, or at his usual place of residence. By adding those words, (if, as the supreme court assumed, they made a part of the note,) the liability of the endorser was increased, or rather the condition on which the endorser might become liable was altered; for he then became chargeable with the debt by a demand of payment of the note at the Bank of America, and notice to the endorser of non-payment. This, I then thought, and so informed my friends, and I now think, was such an alteration of the note and of the conditions upon which the endorser became liable, as, (being done without his consent,) exonerated him. But I do not mean to discuss the merits of the question. I may be wrong and when such distinguished jurists as Chancellor

\* There was one exception--John L. Webb.

Kent, Chief Justice Spencer, and Judges Van Ness and Platt entertain a contrary opinion, I certainly have good reasons to doubt the soundness of my own opinion.

Is it necessary to impute improper motives to Judge Woodworth for his vote on the convention bill ?

It surely does not follow that because he believed De Witt Clinton a more suitable man for governor than Daniel D. Tompkins, he was bound to be of opinion that a bill for calling a convention, which had passed the two houses of the legislature, would be pernicious if it became a law. Were the two questions, on their merits, at all connected ? Gov. Clinton himself had recommended the very measure which the bill before the council provided for carrying into effect. True, he had advised that the question whether a convention should or should not be called, ought first to be submitted to the people. But the question had been several years before the New-York public; scarcely a word had been uttered from any quarter against the measure; the governor, as I have before stated, had recommended it; and, within a few days, the members of the assembly, consisting of federalists, Clintonians and Bucktails fresh from the people, had *unanimously* recorded their votes in favor of the principle of the bill. Why, then, should Judge Woodworth be charged with being governed by corrupt motives in yielding his assent to it ?

The case of Judge Woodworth was, in my judgment, very different from that of Mr. Childs, Gen. Mooers, or Mr. Evans. They were elected by the Clintonians, and immediately combined with those who opposed their election to exclude the party, to whom they owed their election, from all governmental patronage. Mr. Woodworth differed with his political friends, not about the principle, but the details of a proposed law.



The objections of the council of revision were drawn by Chancellor Kent, with his usual ability. Even the council admitted that the constitution ought to be revised, and therefore, of course, did not contend against the principle of the bill; but they alleged, first—that the legislature had no constitutional authority to create a convention with unlimited power, even to propose amendments to the constitution. Second—that, if they had such power, the bill ought to have required the convention to submit their amendments separately to the people, and not in gross; and the council argued with great force, that if the people were competent to decide on the amendments when taken all together, they were most assuredly competent to decide on each separate amendment. In other words, if they were capable of deciding on the whole of an instrument, they were capable of deciding on all the parts of which that instrument was composed.

On Monday evening, the 20th November, the bill was returned to the assembly by the council of revision, with their objections. Much agitation and excitement prevailed in the house upon the occasion. Mr. Ulshoeffer, however, after a very decent, and considering the feeling which then prevailed, moderate address, moved that the bill, together with the reasons assigned by the council of revision against its becoming a law, be laid on the table; and the house unanimously sustained the motion.

This movement of the council produced consequences directly different from what were intended. The object was to preserve the supreme court, and it accelerated its destruction. The chancellor and judges were charged with exercising an almost arbitrary power, with which, by the old constitution, they were invested, to defeat the declared will of the people. It did not require any special gift of prophecy to predict what would be the result of a contest, in a free country, between four men on the one

side and the people on the other. Immediately after the adjournment of the assembly a meeting was held at Skinner's Mansion House, of the members of the legislature opposed to the details of the convention bill, although I am not aware that any of the Clintonian senators attended on that occasion, at which a committee, consisting of John C. Spencer, Samuel M. Hopkins, Herman Gansevoort, Howland Fish and Myron Holley, were appointed, and who addressed their constituents on the subject of the bill which had been vetoed by the council of revision. The address was drawn, as I presume, by Mr. John C. Spencer; it evinced great ability, and among other things, pointed out clearly and forcibly the inequality of representation in the convention proposed by the bill; but the current in favor of a convention was too strong to be checked in its progress. The public mind had, by this time, received an impression that Mr. Spencer, and those acting with him, were, at heart, opposed to any convention which should be vested with powers adequate to what it was deemed the emergency required, and the democratic party were not then in a humor to listen to any reasoning coming from a source so suspicious.

Congress assembled in December, and Mr. Clay, who had for many sessions been speaker of the house of representatives, resigned his office, and his seat as a member of congress.

Mr. John W. Taylor, of Saratoga, an old and respectable member of that body, was proposed by the members from the northern and middle states as a suitable person for his successor. The southern members were divided. Some were for Mr. Nelson of Virginia, and some for Mr. Lowndes of South-Carolina. Mr. Taylor was eventually elected by a small majority. The contest seemed to be rather a sectional one, and particularly between the slave holding and non slave holding states, except as respected

the opponents of Mr. Clinton in the state of New-York. The members belonging to that party, from this state, generally voted against him. Nothing exhibits more distinctly the proscriptive spirit of party than this opposition of the New-York members to Mr. Taylor. He had been a member of our legislature in 1812, and had stood firm against the corrupt efforts of the applicants for a charter to the Bank of America. He had, on all occasions, as a member of the assembly, faithfully sustained the republican interest in the state. In 1813 he entered congress, at which time he withdrew himself from the local contests which prevailed here, and in the national legislature uniformly supported the democratic party, and particularly the measures of the administration during the war.

The speaker of the house of representatives, for the time being, as every one knows, holds a powerful influence in the action of that controlling branch of our national legislature, and gives a very great impetus to the political power of the state of which he is an inhabitant. But Mr. Taylor had declined to make war upon Gov. Clinton, and his colleagues who had opposed Clinton's re-election, utterly regardless of the consideration I have just stated, zealously resisted his election, solely and exclusively on the ground that he had voted for Mr. Clinton as governor.

It will be recollected that the senate, on the 15th November, passed a resolution calling on the governor for such information as he possessed relative to the interference of the general government, or its officers, as an organized and disciplined corps, in our elections. To this the governor, on the morning of the 10th inst., sent the following reply:—

“TO THE SENATE.”

“GENTLEMEN—Fully appreciating the patriotic solicitude of the senate to prevent all unwarrantable intrusions

in the political affairs of the state, I have received their application for information on this subject with great pleasure, and I shall, in due time, make them a communication, which, I trust, will be satisfactory in its nature and salutary in its tendency.

DE WITT CLINTON."

In the speech of the governor he did not affirm, although he clearly intimated, that the officers of the national government had interfered in the late election, and he then states hypothetically, that, "*if, as an organized corps,*" they shall so interfere, he trusted that there would be found a becoming disposition in the people to resist such alarming attempts. He undoubtedly considered, and it strikes me he had a right so to consider, the suggestion as a mere opinion founded upon what he supposed the United States had evinced to be their general policy—an opinion which any one had a right to controvert and show to be erroneous. He did not mean it as an affirmation, the proof of which he could in fairness be called on to produce by documentary evidence. The senate, however, chose to claim that he had taken the latter ground. They probably did not imagine he would have replied at all to the resolution, and in that case they meant to assert that he had put forth a false accusation against the national government. The senate, in acting upon the supposition that Mr. Clinton would evade a contest, entirely mistook their man. No point is more prominent in Mr. Clinton's character, than a constant readiness for combat with a political opponent. The bitter irony contained in the answer, and the menacing attitude assumed by the governor in respect to the majority of the senate, extremely annoyed them. In order to carry on the war on their part, they, on the evening of the 20th November, introduced the following preamble and resolution:—

"IN SENATE—Nov. 20, 1820.—Whereas his excellency the governor, in his reply to the call of the senate for information, relative to the general government, or its officers, as an organized corps, interfering in our elections, has not furnished the senate with any evidence in support of such charges. And whereas it is highly improper that the chief magistrate of the state should criminate the administration of the general government, without ample testimony in his possession, by reason whereof the good people of this state may have their confidence in the general government greatly impaired. Therefore,

*"Resolved,* That the senate repose the strictest confidence in the patriotism and integrity of the general government, and will not change such opinion, or yield to any insinuations against such administration, but upon full and satisfactory testimony."

This resolution was proposed by Mr. P. R. Livingston. It was not anticipated by the governor or his friends. The only indication of an extraordinary movement was, that when the evening session of the senate commenced, the lobby and galleries were crowded with an unusual number of spectators, who were observed to be composed almost exclusively of citizens who had distinguished themselves by their opposition to Gov. Clinton. As the motion was entirely unexpected, no member of the opposition was prepared to resist it by any thing like an argument. Mr. Livingston made a speech in favor of the resolution. He declaimed, with his usual zeal, against this act of the governor of the state of New-York, and represented it almost as treason against his liege lord, the president of the United States; and he adjured all true republicans to unite with him in denouncing a declaration by the executive of this state so utterly unfounded, uncalled for, and indefensible.

It was urged in vain that the manner in which the charge was intimated, did not warrant the senate in calling on the governor for documentary proofs; that, if the speech would fairly bear the construction for which the mover of the resolution contended, only five days had elapsed since the original resolution had been delivered to the governor, and one of those days was Sunday; that, if nothing but documentary evidence would satisfy the senate, it was evident that if, as was alleged, the action of the general government had extended all over the state, the evidence of improper conduct must be collected, from individuals residing in different and various counties, and, of course, that not only weeks, but months must elapse before that evidence could be obtained, collected and digested, in a form suitable to be presented to the senate. It was further stated, that the governor, by his last communication, had committed himself to furnish the evidence, and that the adoption of the proposed preamble and resolution would, on the part of the senate, be prejudging the case before evidence was furnished them. The preamble and resolution was adopted by the usual party vote; and the clerk was directed to deliver a copy of it to the governor.

The next morning he sent to the senate the following brief but indignant reply:—

**“TO THE SENATE.”**

**“GENTLEMEN—**I have this moment received a resolution of your honorable body, which, as well as the one to which it refers, I shall fully notice at the next meeting of the legislature: and shall therefore, at this late hour, pass it over with the expression of my sincere regret that any branch of the legislature should, in so unprecedented a manner, lose sight of the respect due to itself, and the courtesy due to a co-ordinate department of the government.

**DE WITT CLINTON.”**

On the motion of Mr. Skinner, this message was directed to be returned to the governor; seventeen senators voting in favor of it. The legislature on the same day, and indeed in a few moments afterwards, adjourned until the next January. On account of the collisions between the two houses and the council of revision, with respect to the convention bill, and especially on account of the proceedings I have last related; the parties separated in ill humor, and with bad feelings towards each other. It will be recollected that Mr. Van Buren had ceased to be a member of the senate, notwithstanding he was the acknowledged leader of the democratic party; his bland and conciliatory manner, his caution and his aversion to personal controversies would have greatly assuaged if not prevented the violent personal animosities which were excited during this short session.

While I entirely disapprove of the course taken by the senate in relation to that part of the governor's speech which protested against the interference of the agents of the national government in our state elections, I am compelled to say, that I think the intimation was, to say the least, impolitic on his part.

He must have known, that there was not at that time the least inclination among the people of this, or any other state in the union to oppose the administration of Mr. Monroe. He had been very tolerant towards the federalists, and that party felt no disposition to wage a hopeless warfare against him. Our foreign relations were prosperous, and our commerce was in a flourishing condition. There was no just cause of complaint against the measures of the general government, and although, many ardent democratic politicians were not well pleased with the president; yet, they did not choose publicly to denounce him. He was not a man of vigorous intellect, but he was discreet and prudent. It was owing to his dis-

cretion, and to the unusual political calm which prevailed during the eight years in which he presided, that no president, with the exception of Gen. Washington, ever sailed so smoothly through two presidential terms as he did. He had no warm friends, or open enemies. He was in 1820, re-elected without opposition. What could Mr. Clinton hope to gain by attacking such an administration?

On the 9th of January, 1821, the legislature again met, and on the seventeenth of the same month the governor sent to the assembly a message, accompanied with a great number of affidavits, certificates and letters, showing the interference of national officers, and in some instances very strong presumptive proof that the patronage of the general government had been used for the purpose of encouraging opposition to his re-election. The documents were very voluminous and were sent to the assembly in a bag, for the purpose of more conveniently transporting the papers. Hence the message received the name of **THE GREEN BAG MESSAGE.**

Among a variety of other matters, it appeared that Col. John P. Decatur, naval store keeper at Brooklyn, and some other United States officers, had made great efforts at the late election to defeat the Clintonian ticket in the county of Kings, and that other United States officers had been very active in various parts of the state.

Among the documents contained in the green bag, was a letter from Mr. Van Buren to Henry Meigs, then a member of congress from the city of New-York, recommending by name the removal of several Clintonian deputy post masters, and the appointment of men of opposite political sentiments in their places. The letter was evidently written in great haste. He says, "unless we can alarm them" (the Clintonians,) "by two or three prompt removals, there is no limiting the injurious consequences



that may result from it." He adds, "If any thing is done, let it be done quickly." He does not charge the incumbents with any misconduct. Two of the four post masters whose removal he advised, were instantly displaced. This letter was dated the 4th of April, 1820. It was at the time of its publication, and has since been a subject of considerable animadversion, much more in my judgment that it deserved. Mr. Van Buren did no more than other party men, from the organization of the government, had done before him. He recommended the removal of his enemies and the appointment of his friends. The error was in the *practice* which had been tolerated by all descriptions of ~~of~~ men for many years.

Mr. Clinton and Judge Spencer themselves had frequently exerted their influence with those who administered the national government, in the same manner as Mr. Van Buren did his on the present occasion. The green bag message and documents were referred to a joint committee of the two houses.

Immediately after the legislature had organized, the committee of the assembly, to whom the objections of the council of revision to the convention bill had been referred, made a long and laborious report. The report criticised with great severity the objections of the council, animadverted upon the conduct of some its members, and hardly abstained from impugning their motives. The rejected bill, together with the objections of the council of revision, and the report of the select committee, were referred to a committee of the whole house.

Soon after the commencement of the session, and I believe, on the second or third day, Mr. John C. Spencer asked leave to bring in a bill providing for a convention to amend the constitution. The principal features in this bill, which differed from that which had been rejected by the council were,

First. It provided that the people at the next annual election should vote on the question for or against a convention.

Second. That if a majority of the electors should vote for a convention, the governor should issue a proclamation announcing the fact, and thereupon in the month of June following, delegates should be chosen from the several counties who should compose the convention.

Third. That the number of delegates to be chosen by each county should be in proportion to the population, to be ascertained by the census then lately taken.

Fourth. That the amendments recommended by the convention should be separate and distinct, and severally submitted to the people, and be respectively confirmed or rejected, as a majority of the people should decide by their votes.

This project, which seems to be a reasonable one, and would probably have been adopted had it been proposed before the minds of men became highly excited and exasperated, was not listened to by the majority. Indeed, leave to bring in a bill containing this scheme, was refused to Mr. S. upon the plea that the bill then before the house ought first to be disposed of.

A long and exciting debate followed on the original bill, and the objections of the council of revision, without coming to any decision; but after many days, the question was finally taken upon the bill; and it was lost, more than one-third of the members voting against it. The committee on the subject were then directed to bring in a new bill, which they accordingly did; but it was in substance the same as the bill which had been rejected. After this second bill had been discussed for some time, Mr. Burt offered an amendment to it which obviated the principal objection of the council. By this amendment, the question of convention or no convention was to be sub-

mitted to the people at the next annual election. This movement presented a new, though perhaps not a very unusual course of party operations.

The democratic party in the legislature were determined on passing a convention bill, but they well knew that no such bill could be passed by a majority of two-thirds of both houses, unless it should be so drawn as not to be obnoxious to the views expressed by the council of revision; they, however, did not wish to appear to concede that the ground taken by the council was correct. On the other hand, although the Clintonians professed a desire for a convention, if the consent of the people could first be obtained; their leaders at that time really wished to prevent a convention upon any terms. They therefore were anxious that the majority should hold the attitude they had taken against the principles put forth by the council of revision. Mr. Burt was known to be in full confidence with the democratic leaders in the assembly, and there is not, in my mind, a shadow of doubt but that he brought forward this amendment after consultation with them and in accordance with their wishes; and yet Mr. Ulshoeffer, Mr. Sharp, Mr. Romain, and I believe every leading democrat in the house, with the exception of General Root, voted against Mr. Burt's amendment, and every Clintonian, with the exception of Mr. Boughton of Ontario, voted for it. There were for the amendment, eighty-one—against it, twenty-five. In this form the bill passed both houses.

A regard to truth, compels me to state one other fact. After Mr. Burt's amendment had been adopted, and while the bill was in the house of assembly, a prominent Clintonian member of the assembly stated in the presence of a Clintonian senator, that he had reason to believe the council of revision would reject the bill in the form it then was, if they could be supported in the measure by their friends

in the legislature. In justice to that senator, I must be allowed to add, that he told the member that whatever others might do, he would not consent to resist the bill as amended ; that he had for many years been in favor of a revision of the constitution ; that the proposed bill was, in his judgment, as unobjectionable as any bill which could be devised that would pass both houses, and if it should be rejected by the council, he should still vote for it, and make what efforts he could, to obtain two-thirds of the legislature in its favor. If the project I have mentioned, was one seriously entertained by the majority of the council, of which I have no other evidence than what I have stated, it was abandoned ; for it finally passed that body without opposition.

During the present session it became necessary to elect a senator of the United States, in place of Mr. Sanford, whose term expired on the fourth of March. Mr. Sanford was a candidate for re-election ; but at a caucus of republican members of the legislature, which was attended by eighty-two members, Mr. Van Buren received fifty-eight votes, and Mr. Sanford but twenty-four. Mr. Van Buren was, of course, declared regularly nominated. This enterprising and ambitious man, having for several years constituted the active and moving spirit of his party in New-York, began now to turn his attention to the general government. Washington presented to his restless and active mind, a far more extended theatre of action than Albany. The way was open, and the time was propitious for him to take the field there, with a fair prospect of being *the* great man of the Empire State.

As a national politician there was no reason to apprehend that Mr. Clinton would be sustained by a majority of the people of New-York ; and the pecuniary embarrassments of Gov. Tompkins, his impaired health, his failure in the recent election in this state, and his irregular habits,

rendered it morally certain that he would retire from public life after the term for which he had been elected vice-president should expire. Who, then, could stand in the way of Mr. Van Buren from his own state? It is not improbable that he, at that early period, anticipated the splendid success which subsequently attended his career as a national politician.

The Clintonians, in the legislature, voted for Mr. Sanford. In this, I then thought, and now think, they were wrong. It was not pretended that Mr. Sanford's political principles varied essentially from Mr. Van Buren's; nor was it claimed for him, that he was personally, a man of more integrity, while all admitted that Mr. Van Buren possessed a higher grade of talent. What, then, was to be gained by voting for Mr. Sanford? I refused to do so; but as my political friends all made a point of supporting Mr. S., under an apprehension that my vote for Mr. Van Buren would be regarded as an abandonment of them, which I had no intention of doing, I did not vote at all on the question.

In the senate, Mr. Van Buren received seventeen votes, and Mr. Sanford eight; and in the assembly, the vote stood sixty-nine for Mr. Van Buren, and fifty-two for Mr. Sanford.

Mr. Benjamin Knowler, of Albany, was this winter appointed by the legislature, treasurer, in lieu of Mr. Gerrit L. Dox.

Mr. Dox was considered a little unstable and wavering in his politics, while Mr. Knowler was a decided and extremely active and influential politician, which probably was the principal reason of the change. There were, however, other and better reasons. Mr. Knowler had been brought up an apprentice to the hatter's business, in Massachusetts, and while he was yet a young man had established himself in Albany as a hatter. By his industry

and personal labor, he had acquired considerable wealth, and by his integrity and fair dealing, had gained the confidence of all who knew him. He was one of nature's great men, and an honorable specimen of what a laboring American mechanic, favored with vigorous intellectual powers, may become. Though zealous in his political principles, he was frank, candid, and liberal ; and, though an ardent partisan, he was kind and benevolent.

The successful prosecution of the construction, and early completion of the canals, required the appointment of an other acting commissioner ; and provisions for that purpose were accordingly made by the legislature.

The office of canal commissioner had now become a great state office. Much depended on the ability and fidelity with which these officers discharged their duty ; and the immense amount of monies which passed through their hands, and was expended under their direction, clothed them with a patronage which put it in their power to exercise a great political influence, especially in those parts of the state where the canals were located.

When it was determined that an additional commissioner should be created, a number of respectable and powerful candidates for the appointment, from the valley of the Mohawk and other parts of the state, were announced ; and among the most pressing, were Gerrit L. Dox, the late treasurer, and Mbses Austin, the senator from Greene county. But several of the central and interior counties in the state, and such were Schoharie, Otsego, and Delaware, claimed a right to be represented in the canal board—a board which had now become one of primary importance—and they, with great unanimity, irrespective of party considerations, recommended WILLIAM C. BOUCK, a senator from the county of Schoharie. He was, however, afterwards regularly nominated at a democratic legislative caucus, and subsequently appointed by

nearly the unanimous nomination of both houses of the legislature. In the senate, the vote for him was quite unanimous, with the exception of Mr. Rosecrantz, a respectable and worthy senator, of German descent, from Herkimer county, who, with true Dutch obstinacy, declared he would "*never vote for a bucktail.*"

Mr. Bouck was a self-made man ; but his native sagacity and shrewdness, his great caution and prudence, and his almost intuitive knowledge of men, had already given him an influence among his political friends in the quarter of the state in which he resided, for which those who were not intimately acquainted with him, or were not good judges of the human character, knew not how to account. Van Buren, however, early knew, and properly appreciated him.

The selection of Mr. Bouck was exceedingly judicious. Far from disappointing, he exceeded the anticipations of his friends. The history of our canals will show that he rendered services to the state of a character highly important.

The joint committee on the Green Bag Message, on the 15th of March, made their report. They produced several affidavits impeaching the depositions which accompanied the governor's communication ; and, in their report, they speak with great asperity of the course taken by the governor, and conclude by alleging that the existence of any extraneous influence has never been observed in any of our elections. It is difficult to conceive how honorable men could bring themselves to make such a declaration in the face of an intelligent community, nine-tenths of whom must have been satisfied that it was incorrect.

The governor, in his Green Bag Message, had reminded the legislature of the resolution passed by the two houses in 1790, that it was improper, for a person holding an office under the government of the United States, to be a

member of the state legislature. This resolution the joint committee repudiate in no measured terms ; and yet, a few months afterwards, the delegates of the convention, and the people of the state, incorporated the substance of that resolution into our constitution,—so highly did they approve of the principle involved in it.

The legislature adjourned in the latter part of the month of March.

For the purpose of giving, in a connected form, the proceedings of the legislature, I have omitted to notice the action of the new council of appointment, which, it will be recollected, consisted of Walter Bowne from the southern district, John T. Moore from the middle, Roger Skinner from the eastern, and David E. Evans from the western. They were all decidedly hostile to the governor, and Mr. Skinner was said to be, not only politically, but personally unfriendly to him. From the standing of Judge Skinner, and from his activity in all party operations, he was supposed to be the efficient man in the council, and from that circumstance it acquired the name of SKINNER'S COUNCIL. Judge Skinner, from his conduct in this body, and perhaps from other parts of his political conduct, was supposed to be naturally vindictive and malignant in his feelings. It may be so, but I have before remarked that from the observations I made in the course of my acquaintance with him, my impressions in relation to his character, and the native propensities of his mind, were not in accordance with such a supposition. He was not, it is true, a great man ; but I think he possessed kindly and social feelings. He had been educated in a school of politics which taught him to believe that every legal measure ought to be taken to diminish the power of an opponent, and that to the " victors belonged the spoils." This maxim, which has been so much the subject of animadversion, and has been for many years denounced by



all parties in the state when in the minority, has been practiced by each and every party when in the majority. I do not affirm that the practice has been right, but I state as a historical fact, that such has been the practice. It is true, Mr. Skinner's Council carried out this system with greater rigor than even here we had been accustomed to. But in fact, the war was about men, and not about measures, and perhaps on that very account the feelings of the party in power were more highly excited. Mr. Skinner was attacked with great severity by the Clintonian newspaper writers; and I have no doubt his feelings were much soured; but from a long and intimate acquaintance with him, he has left no other impression on my mind than that of a kind hearted, friendly and companionable man. He has many years ago, gone down to the grave, and has not to my knowledge, left a single relative in the state of New-York, and I feel for that reason a higher obligation upon me to do justice to his character and memory.

The council met on the 12th of January, and on the first day of their meeting they ordered the issuing of eleven writs of *supersedeas* to as many sheriffs of counties. They removed Archibald McIntyre from the office of comptroller. The comptroller, since Mr. McIntyre had been the incumbent of the office, had been considered rather as a working man than as a politician. Neither the council of 1807, 1810, 1813, nor 1814, although Mr. McIntyre was decidedly hostile to them, had manifested the least disposition to remove him. They were aware that it required time and experience to become well acquainted with the financial concerns of this great state, and with the best and most proper mode of managing them; and they treated Mr. McIntyre as before stated, rather as a laborer employed by the state than as a political office holder. Besides, all men admitted that he was an accurate and able accountant, and an honest man. His removal produced

great excitement and its effect upon community would have been greater had not the council made a judicious selection of a successor. That successor was John Savage, the son of the venerated senator Edward Savage, and late chief justice of this state. Mr. Savage was a modest, retiring man, but all who were acquainted with him knew him to be a person of sterling good sense, strict and rigid integrity, amiable in his disposition and unblemished in his morals and character.

The council also, on the same day, removed Thomas J. Oakley from the office of attorney-general. This was anticipated. Samuel A. Talcott, then a young lawyer, who resided in Utica, was appointed in his place. Mr. Talcott had not then acquired much eminence at the bar, but he soon developed talents in his profession of the highest order. This appointment was considered as peculiarly Mr. Van Buren's; and the amiable traits in Mr. T's character and his splendid legal talents fully justified Mr. Van Buren in taking a warm interest in his favor. Mr. Talcott had been a federalist, but with many others of that party had opposed the election of Mr. Clinton; and Mr. Van Buren, no doubt felt, that good policy required that some distinguished mark of attention and respect should be bestowed on some of the individuals who had been ranked among the federalists. Mr. Talcott too, was a *young* man, and it was said to be a part of Mr. Van Buren's policy to appear as the patron of young men whose abilities and situation in life afforded a promise that they would become influential in society. I recollect that Judge Platt, about that time, in speaking to me about this and some other similar appointment, said, with a very significant look, "This is the age of young men." Generally speaking, I do not think political leaders are sufficiently aware of the importance of enlisting young men in their cause. The young have ardor, enter-

prise and vigor, and the prospect of a long life before them. They too, are less suspicious and less selfish than their seniors.

The council did not confine their operation, even on the first day of their meeting, to the removal of civil officers, but superseded several gentlemen holding military commissions. Heretofore, this class of office holders, in consequence of the unproductiveness of their offices, had, during all the political revolutions, remained undisturbed. General Anthony Lamb, the commissary-general, was removed to make place for Alexander M. Muir, and Gillead Sperry, a colonel of a regiment of calvary in Clinton county, was also removed. No allegation of misconduct appears to have been made against either Gen. Lamb or Col. Sperry.† But the removal which produced the greatest excitement, was that of Solomon Van Rensselaer from the office of adjutant-general. The gallantry of General Van Rensselaer as a soldier, is well known and universally admitted. The military services he had before that time rendered to the nation, constitute a part of its history. During the late war, though a federalist, he had volunteered his services on the Niagara frontier, and in a daring, though ill-advised attack, led by him, upon the British at Queenstown, he had been dangerously wounded. Notwithstanding all these circumstances, and notwithstanding he had been retained in office by Governor Tompkins, although an open political opponent during the whole period he administered the government, the present council, without any charge of official misconduct, removed him. William L. Marcy, the late governor, was appointed in his place. Stephen Allen was appointed mayor of New-York, in lieu of Cadwallader D. Colden, and Peter A. was removed from the office of recorder, to which Richard Riker was appointed.\*

\* The governor refused to sign the minutes of the proceedings of the council.

† See Note G

After making these changes in the great officers of the state, the council proceeded into every county and removed all, or nearly all the sheriffs, clerks, surrogates, judges of the courts of common pleas, and justices of the peace, who were known or suspected to be politically opposed to them.

Although this council may seem to us extremely rigorous, it must be confessed they were rather carrying out the principle imbibed, and the practices tolerated under the old constitution, than striking out a new path for themselves. Mr. Skinner and his colleagues were playing the same game in respect to Gov. Clinton, which he had done when himself a member of the council, with respect to Gov. Lewis, and when on the motion of Mr. Clinton, Maturin Livingston, the brother-in-law of Lewis, was removed from the office of recorder of New-York, and Dr. Tillotson, another near connection and personal friend of Gov. Lewis, was removed from the office of secretary of state.

But there is one act of this council, which, in my judgment, admits of no reasonable apology. The act to which I refer, was the removal of Gideon Hawley from the office of superintendent of common schools. Mr. Hawley had by great skill and labor formed our common school system. All who know him, and he is now, and was then generally known, admit not only his fitness, but his peculiar fitness for that office. On the able and faithful discharge of his duties depended, not the temporary success of this or that party, but in a considerable degree the weal or woe of the rising generation. The council removed him and appointed in his place Welcome Esleeck, Esq., a mere collecting attorney, who had scarce any of the requisite qualifications of a superintendent of schools. So gross was this outrage, that the political friends of the council in the legislature, would not submit to it. Gen.

Root soon after the appointment of Mr. Esleeck for, as was well understood, the mere purpose of getting rid of him, introduced a bill, or attached a clause to some bill on its passage in the assembly, enacting that the secretary of state should, *ex-officio*, be the superintendent of common schools, which soon passed through both houses with acclamation. Mr. John Van Ness Yates, a man of great versatility of talent, was then secretary. Both he and his successors have performed well and faithfully their duties as superintendent of schools. There is, however, one objection to Gen. Root's law. The secretary of state is necessarily a politician; but the man who presides over our system of popular education should be entirely detached from all political parties. It is the improvement of the mind and morals of children, and not the promotion of the success of a party, which should call into action all his energies, and to which all his efforts should be directed.

Soon after the removal of Mr. McIntyre, the Clintonians nominated him as their candidate for a state senator from the middle district. The candidate, regularly, should have been taken from the county of Otsego, but the Clintonians of that county feeling indignant at Mr. McIntyre's removal, cheerfully gave up their right to the candidate, and he was by his political friends in the district supported with great cordiality. On the other hand, the democratic party considering this, as it really was, an appeal to the people from the decision of the council, and a sort of trial by the country whether his conduct in relation to Gov. Tompkins had been correct, exerted themselves to defeat his election, with great zeal and energy. The people rendered their verdict in favor of Mr. McIntyre; a result the more honorable to him, because at the preceding election, the bucktail or democratic majority in that district was about eight hundred, and Mr. McIntyre,

together with his colleague, Mr. Hasbrouck, was this year elected by a majority of about four hundred.

In the assembly the democratic party elected seventy members, and the Clintonians fifty-two. In the senate, from the southern district, Abraham Gurnee and Abel Huntington were elected ; in the middle, Archibald McIntyre and Abraham Hasbrouck ; eastern, David C. Judson and Daniel Shepherd ; western, Samuel M. Hopkins and Henry Seymour were chosen.

The members elected from the southern district, and Mr. Seymour from the western district, were republicans, and the others were Clintonians. The majority of votes in the state for a convention, was seventy-four thousand four hundred and forty-five !!

This overwhelming majority is an evidence of the powerful current of public opinion in favor of that measure ; and if an able general ought to foresee the result of a battle, Mr. Clinton, Chief Justice Spencer, Judge Van Ness and others, as good politicians, ought to have known that a current was in motion which it was in vain to resist, and which would overwhelm in ruin all who attempted to resist it.

(NOTE B, REFERRED TO ON PAGE 335.)

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I do not now recollect the particulars of the altercation between Judge Taylor and Mr. Purdy. Of one thing however, I am certain, that all men at the time justified Judge Taylor for committing this apparent act of violence. The provocation therefore, on the part of his antagonist, must have been great. Judge Taylor, though a man of high tone of feeling, inflexible resolution and indomitable courage, was utterly incapable of unjustifiably assailing an adversary.

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(NOTE C, REFERRED TO ON PAGE 389.)

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I was mistaken in stating that no convention was held in pursuance of the circular referred to in the text. I was led into the error by a pretty careful examination of the files of the Evening Post. Not finding in that paper any account of the proceedings of any convention held in pursuance of the call, I inferred that no such convention was held. The conjecture expressed in the text, that "one object of the convention was to take into consideration the conduct of the Eastern Federalists," and probably to deliberate on the question, whether the Federalists of New-York should be represented in the Hartford Convention, was also entirely unfounded. Col. Stone, in the Commercial Advertiser of April 15, 1842, says the convention *was held*, that he was a member of it, that its "immediate object was to consider Mr. Van Buren's conscription bill, then before the Senate," and that the Hartford Convention was not named at that convention.

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(NOTE D, REFERRED TO ON PAGE 155.)

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Since the publication of the first edition, I have been informed that the report that Gov. Jay, after his retirement from public life, refused to read political newspapers, was incorrect. Judge William Jay, in his letter to me, after stating that the report was untrue, and that such a refusal would not have been consistent with the interest every good man ought to take in the welfare of his country, says:—"He," (Gov. Jay,) "read the papers constantly, and, at times, took papers of opposite politics, that he might obtain more full information of passing events. So, also, he made it a point of duty to vote at every election." It is singular how the report mentioned in the text obtained currency. I have heard it asserted as truth, among well informed men, perhaps a hundred times

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(NOTE E, REFERRED TO ON PAGE 412.)

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The Bank of the United States was chartered during this session. The bill for its charter was reported by Mr. Calhoun, chairman of the finance committee. It was supported generally by the Republican members of Congress, and among its supporters Clay, Calhoun, Forsyth, Ingham, Lowndes and J. W. Taylor were the

most influential and efficient. It was opposed by the Federalists as a party, at the head of whom in the H. R. was Mr. Webster. They were joined by some of the southern and a few other democratic members. By the aid of these, Mr. Webster entertained sanguine hopes of resisting successfully the passage of the bill, but his expectations were disappointed by a defection in his own ranks, which he did not anticipate, and which he perceived with surprise and mortification. Mr. Grosvenor from this state, and Mr. Hulbert from Massachusetts, before the close of the discussion, declared themselves in favor of the Bank, and eventually about fifteen other Federalists voted with them in favor of the bill.

While the bill was in committee of the whole in the H. R. an incident occurred which in the history of political parties deserves to be noticed. Doct. Lewis Condit, a member from N. Jersey, moved to amend the bill by providing for the location of the Mother Bank in the city of New-York. He was supported by Gov. Robertson, a member from New Orleans, by Mr. Forsyth from Georgia, and many others of the southern and western members, and his amendment was adopted by a large majority. Mr. Robertson, Forsyth and others contended with great and decisive effect that the Bank ought to be located in the Commercial Metropolis. It will be recollected that Mr. Dallas of Philadelphia, was at that time Secretary of the Treasury. The evening succeeding the day on which Dr. Condit's motion was adopted, Mr. D. set on foot a very active system of electioneering; and the next day Mr. Clendenin from Ohio, moved a reconsideration of the vote, which motion was carried.

It was at that period pretty well ascertained, that the bill for chartering the Bank would not pass the house, without the vote of a large majority of the republican members from New-York. Mr. Taylor, therefore, invited a meeting of those members. Such a meeting or caucus was held, and Mr. T. proposed that unless the friends of the Bank would consent to rescind the vote upon Mr. Clendenin's motion, the New-York members should agree to vote against the bill. A majority at first seemed inclined to do so, but Mr. Irving from the city of New-York being called on, declared that he had given his word "to the administration," as he expressed himself, to vote in favor of the Bank, and he should do so. Upon this, Mr. Taylor said, if the member from the city, which was most interested in the question, chose to relinquish his opposition to the location of the Bank in a rival city, he (Mr. T.) coming as he did from the country, would not assume the responsibility for the sake of sustaining the supposed interest of the city, of opposing the chartering of the Bank, and with him nearly all the country members concurred. It would therefore seem, that either the Bank would have been located in New-York, or no bank would have been chartered, if Mr. Irving had not declared his determination to vote for a bank, to be stationed in Philadelphia. Eventually, all the republican members from this state, except Messrs. Birdsall, Root, Savage and myself voted for the Bank.

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#### (NOTE F, REFERRED TO ON PAGE 469.)

In the first edition it is stated that Gen. Root was appointed by this council District Attorney for the county of Delaware. This is an error. The fact was, a majority of the council *agreed to appoint* Mr. Root, which occasioned an impression upon my mind that he had been actually appointed, and I incautiously stated the fact without referring to the minutes of the council.



## (NOTE G, REFERRED TO ON PAGE 568.)

The text is wrong as respects the removal of Col. Sperry. He was charged with official misconduct as president of a court martial. Information recently received from a gentleman who then resided at Plattsburgh, and was an officer in the militia, enables me to state, that a brother of Col. S. at that time was a Lieut. Col. of a Regiment of Infantry, and that Maj. A. G. Flagg had raised a uniformed battalion. The companies which composed Maj. Flagg's battalion consisted each of 100 men. The Lieutenant Colonel contended that Maj. F. had no right to enlist more than 64 men in one company, and on that ground he returned as delinquent some 30 or 40 of Flagg's men. On the trial of these men Major Flagg employed Mr. Walworth, the present Chancellor, as their counsel. He contended that the officers of the battalion under whose orders the accused had acted, if there had been a delinquency, were the delinquents, and not the privates, who innocently and in good faith had at their own expense equipped themselves; that if the officers had been the accused, they must have been tried by a general court martial, which would have been ordered by Maj. Gen. Mooers, in which event they would have had a fair trial; that to evade an impartial investigation, the present course had been adopted, and a court had been organized with a president, who was the mere instrument of Lieut. Col. Sperry, whose feelings were strongly biased against the accused. Mr. Walworth probably advocated the cause of his clients with some warmth, and the president, Col. Sperry, alleging that he treated the court disrespectfully, commanded him to be silent; but he continuing to advise his clients, the court forced him to leave the room, and stationed a marshal at the door to prevent him from returning. These facts were represented to the Council of Appointment, and on that representation Col. Sperry was removed.

## NOTE H, REFERRED TO ON PAGE 245.

Present information enables me to say, that the imputation of sinister motives implied in the text against the venerable Edward Savage is unjust. The only new appointment, that of Mr. Cray, was induced by a political necessity which then existed, the history of which would not now be interesting, but which entirely exonerates both Mr. Savage and Mr. Cray from the charge of being influenced by any other than honorable motives.

## NOTE I, REFERRED TO ON PAGE 328.

Since the publication of the first edition, I have again examined the pamphlet referred to in page 329, on the authority of which, the statement in the text is principally made. I find that the pamphlet does not expressly state that the petition (which has been lost) contained a prayer for the grant of the salt works; but from its tenor no reader can fail of inferring that a lease of those works was one of the main objects of the Company. Whether I was induced to allege that these works were petitioned for, from reading the pamphlet, or by finding the allegation in some cotemporary newspaper, I can not now determine.

I make these remarks for the purpose of stating, that it was far from my intention to charge any of the gentlemen named in the text as petitioners, with improper motives. It is by no means probable that at that day the low price for which salt would eventually be manufactured was anticipated, or the real value of the salt springs appreciated. The application for a charter for the State Bank was a party measure, and these gentlemen signed the petition as leaders of the Republican party, and as state officers. My sole object for inserting this account in the text was, to afford an illustration of the danger of legislative grants of monopolies; and I mentioned the names of Gov. Taylor, Judge Spencer, Doct. Tillotson and Col. Jenkins, as evidence that men of high character for patriotism sometimes innocently sign petitions for exclusive grants, without sufficiently considering the evils which may result from them. Judge Spencer has recently denied (as I think in rather uncourtous terms) that he had any concern in asking for a lease of the salt springs.

## NOTES BY GEN. ROOT—VOL. I.

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(NOTE J., REFERRED TO ON PAGE 4.)

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The author, thus early in his Book, announces his intention "to delineate in detail the character, and develop the motives of the actors in the political drama, and the causes which impelled those actions." It was rather unfortunate that he made the announcement, but much more so, that he has actually and extensively carried out that intention. No man undertaking to give a political history of past, or even of present times, can judge correctly of the motives which impel political men to action. The evidence can only be gathered from the ephemeral publications of the day, and the denunciations and too often calumnious declarations of political adversaries. In such publications, nought but the basest of motives are ascribed to an adversary ; while, in his presence, or in a deliberative assembly, the same defamers would concede to him the most honorable intentions. The political friend will generally content himself with an approval of the act, without enquiring into the motives. Should the historian undertake to judge of the motive entirely from the act itself, he might be led to a wrong conclusion by his approval, or disapproval, of the same act. Such is man, that he can not entirely divest himself of prejudice. Better, far better, then, to invest himself with a goodly share of Heaven-born charity, and ascribe no evil intention to fellow man, unless clearly developed by his actions. E. R.

The right of the historian to deduce from the actions of men, the motives of action, has, I believe, been generally accorded to, and exercised by, all writers of history. But the motive assigned, is merely the opinion, or rather the deduction, of the individual writer. The reader, after considering the action, sits in judgment on the historian, and judges of the correctness of his inferences. These speculations on the causes of the action of men, constitute a part, and in my judgment an important part, of what may be called the philosophy of history. I may have been, and probably in some instances have been, wrong in the motives I have ascribed, but whether wrong or right, the reader must and ought to judge. I must, however, be permitted to add, that I have not knowingly, on any occasion, been influenced by the party publications of the day, in ascribing motives to individuals. J. D. H.

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(NOTE K., REFERRED TO ON PAGE 33.)

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The independent tenour of office of the State Judiciary did not grow out of the aristocratic bearing of wealthy and influential families, giving a higher tone and current of thought, and producing a different state of society from that in some

of our sister states. The independence of the judiciary was a principle dear to the Whigs from the earliest epoch of our history. The higher Courts in England were the King's Courts, and the judges were appointed by the Crown, and their duration in office, as well as their stipends, were dependent upon the royal will and pleasure. Their decisions, when royal prerogative was in question, were, of course, very likely to be swayed by the influence which gave them being, and sustained them in power. The advocates of freedom, and the champions of the people's rights, were the fated victims. Their liberties, and frequently their lives, were the sacrifice upon the unholy altar of judicial dependence and corruption. Long they struggled to make the judiciary independent of the crown. Eventually they were successful, and the King was compelled to issue his commissions to them during good behaviour—" *jam bene sese gesserit*."—On the completion of the revolution (in 1688) by the installation of a whig King, this right and immunity was secured to them forever. In our revolution, when the people became the sovereign, and assumed the place of majesty in all judicial proceedings, the same judicial independence was preserved. The whigs in this country, as well as in England, have been uniform in this respect.

E. R.

The learned author of this note is undoubtedly correct in ascribing the independence of the judiciary in England to the well founded apprehension of the whigs, that the dependence of the Judges for the tenure of their offices upon the King might effect their decisions on questions in which the royal prerogative was concerned. But is there the same reason to apprehend that in this country, where "the people have assumed the place of majesty," that they, speaking through the polls of the election, will encroach on the rights of individuals, or on their own rights as a body, by an influence, growing out of a power to create or remove, through their agents, the highest judicial functionaries?

J. D. H.

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(NOTE L., REFERRED TO ON PAGE 37.)

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The constitution of 1777 had provided that such parts of the statute law of England and Great Britain as were in force at the beginning of the Revolution, should continue to be the law, subject to the action of the Legislature. The statute of Jeofails, as well as many other amendments to the practice of the law and pleadings, was in force. The Legislature had provided for the revision of the laws, and appointed Samuel Jones and Richard Varick revisors. In 1788 the revised statutes were re-enacted, and went into force on the first of May in that year, when all the statutes of England and Great Britain, and of the late colony of New York, ceased to be in force. Instead of this important statute being "drawn by Samuel Jones," and "its passage effected by his address, talents and influence," he was but a mere copyist of old statutes, throwing and condensing them into one act. The revisors, and especially Mr. Jones, were sedulously careful to retain the exact words and phraseology of all

the old statutes, however quaint the expression or absolute the terms. The reason given for the retention was,\*that we had the benefit of a long course of judicial decisions to settle their true meaning and construction, which would be entirely lost by the least variation. These expressions were very much altered in subsequent revisions, and I have not been advised that the public has materially suffered for want of those judicial decisions. Mr. Jones was an able lawyer, but his eminence was not derived from the exercise of his talents in effecting the passage of the revised statutes of 1788. E. R.

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(NOTE M., REFERRED TO ON PAGE 48.)

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"The most objectionable part of Gen. Hamilton's scheme was the assumption by the nation of the debts of the respective states, and the chartering of a Bank. To these measures the republicans of this state were generally opposed."—This assertion of the author is partly correct and partly incorrect. The republicans of this state were generally, I believe, opposed to the assumption of the state debts. We had then six members of the House of Representatives—three federalists and three republicans. The republican members voted against the assumption. This state had paid its troops better, and defrayed the expense of the war within its borders in a better currency, than those of most of the other states. During the war many of the state troops were raised by classes, and well paid. After its close, the regiments and corps raised as its quota, and put upon the continental establishment, were liberally rewarded in the grant of large quantities of valuable land. In the sale of its unsettled lands, the state had the means of payment within itself. It had then lately, and before the ratification of the constitution by nine states, issued a large emission of state currency, which was as good as gold and silver. In addition to these reasons, the republicans had not been zealous to consolidate the Union, and decorate it with all the trappings of a great nation. They were for preserving the importance of state authority and state rights. In short, the republicans were opposed to the accumulation of a large national debt, while Mr. Hamilton declared it a national blessing.

The Bank had the unanimous vote of this state in Congress.\* The division on that question appeared to be rather geographical than political. The eastern and commercial states were generally in its favor, while the southern and planting states, with the exception of their commercial towns, were in opposition. The former saw the necessity of a national currency, equally good in every state, and were convinced that a national Bank was the best calculated to effect that object, while the latter, not having by experience been made so well acquainted with the laws of currency and exchanges, could see no necessity for such an institution. Hence some of their most eminent statesmen, among whom

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\* I learned the supposed fact that three of the members from this state voted against the incorporation of the first U. S. Bank, from an old newspaper. It was probably incorrect. J. D. H.

Mr. Jefferson and Mr. Madison held a conspicuous rank, could see no authority in the Constitution to create one.

[Gen. Root, in the note with which he has favored me, here proceeds with much clearness and great ability to give a history of the reasons urged to the Congress of 1811, of which he was a member, for and against the renewal of the charter of the first United States Bank; and I regret that the views he presents would occupy too much space for insertion in a note. He concludes with the following remarks:]

J. D. H.

Nought but a sense of a strong necessity of a National Bank could induce any republican to give it his support. I remember well how often I attempted to reason my political friends into a belief that a National Bank was so necessary to a sound currency and a safe management of the Treasury that we ought not to hazard the timely creation of a new one. I attempted to repel the notion of a supposed British influence in this country through the English stockholders. I urged that the influence, if any, would be the other way—America operating upon England. As the English stockholder could have no agency, not even remote, in the management of the affairs of the Bank, they could have none of that influence which the disposition of pecuniary favors may be supposed to give—but, on the contrary, the stockholders, deriving their income from funds managed by American Directors, liable to sequestration by the American government, dependent as to its amount in a great measure upon the peaceful and prosperous condition of this country, and in the event of a war its receipt entirely cut off, at least for a time, would have every inducement which interest can prompt to influence their government to forbear. All this reasoning was of no avail with the republicans of Otsego and Delaware. With them it was a Federal Bank, a British bank, which would keep us under Federal and British influence. They were my constituents, for I was their Representative in Congress. I was unwilling to displease my constituents, and therefore stepped aside when the vote was taken on re-chartering the Bank. I fled the question—a trick I have seldom performed, and of which I never was proud. E. R.

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(NOTE N., REFERRED TO ON PAGE 83.)

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The act requiring the Town Inspectors to canvass the votes and return the result of their canvass, did not become a law till the winter of 1799. I remember it well. I was a member myself. Joshua Dewey of Otsego introduced the bill. I voted for it cheerfully, recollecting with what anxiety we waited the spring before, from the last week in April till 4th Thursday in May, for the canvass. Till the canvass by the supervisors, it was extremely doubtful whether I was elected. I came out but 20 ahead of the highest of my adversaries. The supervisors gave me the certificate. The next year the result of the town canvass was returned to the County Clerk—he made the estimate and gave the certificate. I remember too the battling I had with Ebenezer Foot, the County

Clerk who declined for a long time giving me the certificate, in 1800, on account of an *e* final being added to my name by one of the towns. Probably Mr. Hammond was led into the error by finding on the journal of that year, that a bill for that purpose was introduced into one or the other of the two Houses. E. R.

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(NOTE O., REFERRED TO ON PAGE 127.)

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Judge Jay is in a very great error in saying, that "during the six years of Gov. Jay's administration, not one individual was dismissed *by him* from office on account of his politics," unless he would have his readers believe that the acts of the Council under the great Seal of the State and the signature of the governor are not his acts. Judge Hammond, too, has looked into "*the wrong bill*" to find the numerous *dismissals* from office on account of their politics, during the two last years of Governor Jay's power. "*Removals*" from office were made at that time by issuing a new general commission of the *pleas*, or of the *peace*, or both, as the occasion required. It was held that a new general commission to the county superseded all the officers then in commission,\* and whose names were not included in the new. Under the old constitution, county Judges (other than the first Judge) and Justices of the Peace held during the pleasure of the Council; but new commissions were to be issued once in three years. When, therefore, Mr. Jay's Council, and also his successor, wished to make a sweep in a county, they would issue a new commission, when perhaps the old one was much less than three years of age. Thus, in Delaware, the first commission of the *pleas*, and also that of the *peace*, was issued the latter part of March, or beginning of April, 1797. During the August session of the Legislature in 1798, a new commission was issued. Judge Gabriel North and assistant Justice Benajah Beardsley were omitted in the new, and Tory Federalists appointed in their stead. In the commission of the *peace*, myself, and I think four other Justices of the Peace, were omitted, and of course superseded. Doct. White, of Cherry Valley, was in the Council. He knew me well. He must have known Judge North. But Ebenezer Foote was then in the senate, and the deed was undoubtedly done at his instance, and probably backed by Mr. Butler, then my colleague in the assembly. Mr. L'Hommedieu, then a member of the Council, told me he enquired if there was any cause for removal. No answer was given. He voted against our removal. I believe there were many cases of the kind in the state. Let Mr. Hammond, if he again gets access to the books of the Council, look at the names of those in the new commission, compare them with those before that time in office, and he will be able to discover something of the causes as well as the manner of making removals. If the new is much less than three years younger than the old commission, he may rest assured that some covert object was in view. Removal from office on account of politics was begun under Jay's administration, and carried to as high a pitch as it ever

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\* Gen. Root will see, if he will turn to Vol. I., p. 178, that I did "look into the right bill."

was since that time. The fashion has been followed, and frequently to a ridiculous extent, but hardly ever, if ever, exceeded Gov. Jay. I have been informed that Gov. Geo. Clinton, when, in 1801 the Council was composed of De Witt Clinton, Spencer and Roseboom, was himself opposed to such measures, but that his friends urged him on, and he was forced to comply. I have no doubt, nor had I in the time of it, that both Gov. Jay and President Adams were, "*during the reign of terror*," urged by the madness of the times and the pressure of friends, to do many things their own prudent counsels forbid. E. R.

The ardent feelings of the General, when he was a young man and a busy actor in the scenes he describes, must have returned and had some influence upon him when he wrote this note.

With respect to those general commissions of the peace mentioned by General Root and spoken of by me in the page above referred to, they did indeed operate as a removal of all incumbents of office not included in the new commission, but these commissions were, I suppose, made out according to the recommendations of the members from the respective counties, subject to the revision and correction of the members of the Council in whose district the county into which the new commission was to issue happened to be situated. I do not believe the Governor had much, and very rarely any thing, to do with the selection of these comparatively petty officers. That Judge Jay was strictly correct as respects the general principles which governed his father's conduct with respect to removals from office, I have no manner of doubt.

On page 127, I mention the removal of John Jacob Lansing from the office of Sheriff of New York, without any charge of mal-conduct against him. It is true no charge appeared on the books of the Council, but I was notwithstanding correct as appears from the following letter which I received from Judge Jay.

J. D. H.

*New York, Jan. 15th, 1846.*

MY DEAR SIR:—

A few days since I was at the house of an elderly gentleman of the bar of this city, and he, of his own accord, and without my having made the slightest allusion to your work, brought out the 1st Vol. of your history, and remarked, that he had detected an inaccuracy in it respecting my father. He then turned to the passage in which, in reply to my assertion that the Gov. had never removed a man from office on account of his politics, you cite the cases of Lansing and Peck, for whose removal no causes are assigned on the minutes of the Council, and you seem to take it for granted that they were removed on account of their politics. The gentleman informed me that he was familiar with the case of the sheriff—That Lansing was a FEDERALIST, and of course a political friend of the Gov., but although a good sort of man, he was indolent and inefficient—That the lawyers made great complaints that they could not get their writs returned, and that the Governor removed him in consequence of these complaints.

WILLIAM JAY.

JABEZ D. HAMMOND, Esq.

## (NOTE P., REFERRED TO ON PAGE 128.)

The bill for the gradual abolition of slavery, which passed the assembly during the session of 1799, was not lost in the senate. It passed into a law, and began to operate on the 5th July, 1799. It was introduced in the assembly by John Swartwout, of New York, and provided that from and after the 4th day of July next, every child born of a slave, should be taken and adjudged to be born free, but might be held as an apprentice servant, if a male, till 28, and if a female, till 25 years of age. I moved an amendment of the bill, to render the male free at twenty-one, and the female at eighteen. I urged the propriety of putting the children of slaves upon the same footing as the children of freemen—that they were so already, both by the constitution and laws of this state, and by the Divine Law. The declaration of Independence was made the preamble to the Constitution of this state, and of course part and parcel thereof, at least the principles therein declared are recognised by the constitution, and thereby became law, and of as much binding force as any part of that instrument. It declares that all men are born equally free, and are entitled to retain inalienable privileges, among which are life, liberty, and the pursuit of happiness. The Divine law was promulgated at the creation of the world. To man was given dominion over all created things—any man is therefore entitled to hold property. By our laws a slave can hold no property, but is himself the property of another. The law of God is paramount, and our slave laws are void. The slaveholders at that time were chiefly Dutch. They raved and swore by *dunder and blizen* that we were robbing them of their property. We told them they had none, and could hold none in human flesh, while yet alive, and we passed the law.

I have held the same principle in regard to slavery from that time to the present day.

In 1821, when a member of the assembly, I introduced a bill<sup>a</sup> declaring that slavery cannot exist by the laws of this state, and enforced its passage by the same general course of argument I urged in my more youthful days. I got quite a respectable vote in its favor, and should undoubtedly have got a much larger one had it not been for the law of 1817, which made all free after the 4th July, 1827.

E. R.

The positions here taken by so eminent a statesman and constitutional lawyer as Gen. Root, are entitled to great consideration; and the more so, because, if his principle be sound, (and I for one believe it to be so) all the states which were represented in the Congress of 1776, became parties to the Declaration of Independence, and thereby admitted the principles promulgated in this instrument to be the fundamental law of the old thirteen United States. The result is, that the adoption of the declaration of Independence by the respective states, virtually abolished slavery in all those states.

J. D. H.

<sup>a</sup> See Vol. I., page 540—541.



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(NOTE Q., REFERRED TO ON PAGE 229.)

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The author has given quite a correct account of the union of the Burrites and Republicans against Gov. Lewis in 1805-6—and which was said to have been consummated at the celebrated Dyde supper. I know something of it myself. Although I was not much of a Burrite, being in Congress and absent from home till within a few days of the election, and then cautiously refraining from all positive action in regard to it, yet I was set down as such, and am so registered by the author. Happening in Albany shortly after the Dyde supper, I was invited to make one of a large dinner party. The guests were chiefly distinguished men, who in the election of 1804, had given the preference to Col. Burr. A few distinguished men were present who had preferred Gov. Lewis. We were highly complimented for our early and superior sagacity in discovering the unfitness of Gov. Lewis for this important office. As I had taken no active part in the election, I seemed to be the peculiar object of even lavish encomium. They allowed that I had been actuated by a noble and disinterested patriotism—not from any attachment to Col. Burr, but from a persuasion that the public interest would not be promoted by the election of Lewis. They endeavored to persuade us to believe that we had pursued the republican path, while they had inadvertently been led astray in the pursuit of a phantom. E. R.

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(NOTE R., REFERRED TO ON PAGE 248.)

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I was acquainted with Burr, and I thought well acquainted with him, when in the height of his power and fame. I was two years with him in the assembly; was in Congress when he was President of the senate, and have heard him in the Supreme Court and Court of Errors. From this knowledge of him I draw quite different conclusions, in regard to his talents, from those of the author. As a lawyer and as a scholar he was not inferior to Hamilton. His reasoning powers were at least equal. Their *modes* of argument were very different. Hamilton was very diffuse and wordy. His words were so well chosen, and his sentences so finely formed into a swelling current, that the hearer would be captivated. The listener would admire if he was not convinced. Burr's arguments were generally methodized and compact. I used to say of them, when they were rivals at the bar, that Burr would say as much in half an hour as Hamilton in two hours. Burr was terse and convincing, while Hamilton was flowing and rapturous. They were much the greatest men in this state, and perhaps the greatest men in the United States. Burr was not distinguished for his morality, nor was Hamilton ever dubbed professor of the moral law. E. R.

## (NOTE S., REFERRED TO ON PAGE 329.)

The information given the author by William A. Clarke, member of assembly from Orange county, in relation to the proposed distribution of stock in the State Bank as an inducement to its passage, is correct. I was in Albany while the bill for the incorporation of that Bank was pending in the legislature. I was not a member—I had been the year before, but was then a member elect of Congress, to take my seat at the next session. I had for years passed been politically associated with those engaged in procuring the passage of the bill, and with most of them was intended for one of the directors. I could not of course be ignorant of the object, nor of the proposed means for its accomplishment. In the first place it must be *Republican*, to counteract the political influence of the Albany Bank, and thus to make it grateful to the party and insure its passage, the stock must be well distributed throughout the state, and the way to do it most readily would be for the republican members of the Legislature to take shares. I was asked to take a part in the bank, and I did subscribe for fifty shares. I returned home, and when I learned that the bill had passed both Houses, and had become a law, I went to Albany to pay in the first instalment, and take the scrip for my shares. I called upon most of the directors, *but the paper to which I had subscribed for my shares, was not to be found, and of course no shares were reserved for me.* The Directors afterwards allowed me eight shares, and, as one of them told me, from those reserved for themselves. I declined to take them, as I had prepared to take the whole number subscribed for, and did not wish to be troubled, at so great a distance from the Bank, with so small a share of its stock. After the adjournment of the legislature, John Lamb, one of the members from Delaware, presented me with a certificate of eight shares for myself, and offered me eight other shares allowed him. He said he should not fill them up himself, and it was thought I should be satisfied with the sixteen shares. In a fit of more spunk than wisdom, I rejected the whole.

There was nothing of mystery in the passage of the bank. It was passed as a party measure, with the avowed intention of distributing the stock among the party. There was no assurance that the stock would be above par. There was no body to assure, nor was there any need of it to secure the passage of the bill. It was urged, by the projectors and managers of the scheme, that the stock would be above par, to induce prominent republicans as well as members of the legislature to go into the measure. The affidavits of Luther Rich and others were never taken as applicable to this bank;—nor was the “Jedediah Bushel” anecdote. Members of the legislature did not sign to any paper, and there was no disguise in the transaction. These affidavits must have been made with reference to subsequent transactions, and the affair of Judge Peck was in the case of the charter of the Mechanics and Farmers Bank.

E. R.

\* I have myself seen a printed paper purporting to be a copy of the affidavit of Luther Rich, as set forth in the text. Gen. Root does not of course claim to make this negative allegation from his own knowledge. His suggestion in relation to Judge Peck may be, and probably is, correct.

J. D. H.

## (NOTE T., REFERRED TO ON PAGE 330.)

When the State Bank was created, the procurement of bank charters was not a matter of speculation. It was not then, as a few years afterwards, reduced to a corrupt science. The projectors of this bank found that their friend in New York had attained much of political influence by means of the Manhattan Bank, and were desirous of doing the same in Albany, by the establishment of a new one in that city. They were apprehensive that without some correlative source of gain, the stock of a new Bank in Albany would not be profitable; and indeed that it might be difficult to induce them to become so. Accordingly they took the Onondaga Salt Springs to aid along their project. That being denied, they sought to push it forward by spreading the stock among the influential republicans of the state, including members of the Legislature, and carry it through as a party measure. *Nothing in the transaction had the least semblance of a corrupt influence.* No one would hesitate, from motives of delicacy, to offer to a member, nor for him to take, shares in a bank sooner than in a turnpike road or the old canals. But afterwards, when leading members of the party put themselves in opposition to a projected Bank charter, either because it might aid the political power of their adversary, or impair the gains of their own cherished institution, the petitioners, to secure success, resorted to means corrupting in their character, and demoralizing in their tendencies. Their shares would be assigned to members, and upon a credit, and with assurance of a certain premium in the event of a charter. In the case of the Mechanic's and Farmer's Bank, the members had their shares, and speculators were present and purchased them in. In this bank it was said that the informal scrip, or brief minute, was made out to "*J. Bushel*" and by Judge Peck assigned in the usual informal manner. But transactions of this kind had not yet become wicked in the public estimation. They were talked of as pleasantries. The Merchant's Bank in 1805 had powerful opposition to encounter, and of course made use of powerful means to accomplish the object. Then the shares and assurance became downright corruption. This was the commencement of that "corrupt practice" mentioned in page 329 by our author.

E. R.

The General says, that "nothing in the transaction had the least semblance of corrupt influence." I have no doubt of his sincerity, and I readily concede that he did not discover any corrupt influence. It will be remembered that he was not at the time a member. But grant that Wm. A. Clark's account of the transaction is correct, and concede that representations were made that the stock would be above par (and I am quite sure Wm. A. Clark did so state, and if he did not, he is, I believe, now living in Orange county, and can correct me if I err) did not the assurance that every republican member should have a certain number of shares, if the charter for the bank passed, have a tendency to induce the republican members to act and vote from mercenary motives? The General himself was angry because he did not get his full tale of stock—Why was he angry, if shares were not desirable?

J. D. H.

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(NOTE U., REFERRED TO ON PAGE 338.)

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The author thinks the application for the charter of the bank of America a meritorious one, and standing on its own merits ought to have been granted. Had he been well acquainted with the application of Col. Throop for a five million bank, he would have arrived at a different conclusion. I will proceed to give the outlines of that application, but I must do it entirely from memory, and without any journal or document to refresh it.

The old Bank of the United States had expired by the limitation of its charter, and the bill for its revival had been rejected in the Senate of the United States by the casting vote of the Vice President. A large share of its stock was held by foreigners, mostly Hollanders. Col. Throop was their agent, at least to the amount of five millions of that stock. Early in the session of 1812, he made an application to the legislature of this state, in behalf of these foreign stockholders, for the incorporation of a bank of five millions of this stock, and as a *bonus* for the charter he proposed to pay into the treasury of this state ten per cent on the capital, before the company should be allowed to operate under the charter. The bill was ready drawn, and presented with the petition to the senate, read the first and second time, committed to a committee of the whole house, and put upon the general orders. I often called for the consideration of the bill, but it would never "*come at my call*." The applicants for the five million bank, or Bank of America, pretended to have of the stock of the old United States Bank, but it was known they had but little if any of it at command. They too were to give a *bonus* of ten per cent; but subsequent events showed, what was then believed, that they never intended to pay it. This application, when compared with Col. Throop's, could have no merits of its own. I was extremely anxious to pass the five million bank. I urged the advantage of saving this large foreign capital in this country, as well as the rich accession of half a million of dollars to our treasury. It was this proposition which suggested to my mind the plan which I submitted for the adoption of the Legislature, to institute a board with full power to grant bank charters. My plan was to authorize the Secretary of State, Comptroller and Attorney General, to grant charters or licence to any company to carry on banking operations, under proper restrictions and for a limited period, on paying in all their capital, and ten or more per cent upon it as a *bonus* into the treasury. This, I urged, would limit banking capital to the wants of the country, keep the stock above par, and ensure fidelity in the companies. The revenues to be derived from this source, I was for applying to the school fund. Had my plan been adopted, what a rich blessing it would have been to the country?

E. R.

The facts contained in this note are of great importance, and ought to have been inserted in my history. If any additional evidence were required to prove that the Legislature acted corruptly in chartering the Bank of America, the fact

that they rejected Col. Throop's application, urged as it was by the talents and eloquence of Gen. Root, and granted the petition for a charter to the Bank of America, is of itself decisive.

J. D. H.

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(NOTE V., REFERRED TO ON PAGE 41.)

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I am reminded by Gen Root of an error which I regret has been often repeated. From the time of the adoption of the federal constitution, in 1788, till about the time of the election of Gen. Jackson in 1828, the party opposed to the federalists, was known as the REPUBLICAN party. For a long time the word *democrat*, or *democratic*, was used as a term of reproach. The republicans were by the federalists called democrats, as synonymous with the word *Jacobin*. And indeed it was intended to convey the idea that the republican party in principle and practice was nearly allied to the *Jacobinic* Clubs in France. On the other hand, the republicans, with a view to cast odium on their opponents, called the federalists *aristocrats*.

In writing my history, I carelessly used the words *democrat* and *democracy* according to their proper meaning, since the presidency of General Jackson. As the alteration of the stereotype plate, in every case where the error occurs, would occasion considerable expense, the reader himself is requested to make the correction.

J. D. H.

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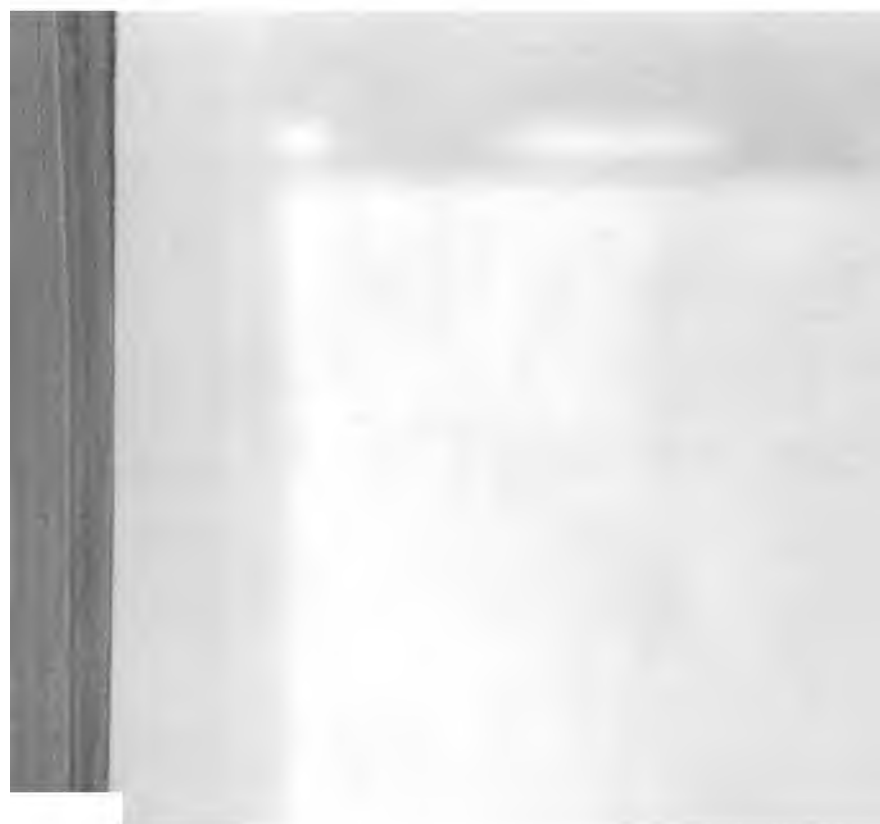
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